

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 89
96TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, April 28, 2011, with recommendation that the Senate Committee Substitute do pass.

0385S.10C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 247.060, 253.082, 253.090, 256.400, 260.262, 260.380, 260.475, 260.965, 319.132, 386.850, 414.072, 621.250, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 643.253, 643.260, 644.036, 644.051, 644.054, 644.071, 701.033, and 701.332, RSMo, and to enact in lieu thereof forty-six new sections relating to natural resources, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 247.060, 253.082, 253.090, 256.400, 260.262, 260.380, 260.475, 260.965, 319.132, 386.850, 414.072, 621.250, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 643.253, 643.260, 644.036, 644.051, 644.054, 644.071, 701.033, and 701.332, RSMo, are repealed and forty-six new sections enacted in lieu thereof, to be known as sections 37.970, 192.1250, 247.060, 253.082, 253.090, 256.055, 256.400, 256.433, 260.262, 260.269, 260.380, 260.475, 260.965, 319.130, 319.132, 414.072, 621.250, 640.018, 640.045, 640.116, 640.128, 640.850, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245, 643.250, 644.036, 644.051, 644.054, 644.071, 644.145, 701.033, 701.058, 1, and 2, to read as follows:

37.970. 1. It shall be the policy of each state department to carry out its mission with full transparency to the public. Any data collected in the course of its duties shall be made available to the public in a

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

4 **timely fashion. Data, reports, and other information resulting from any**
5 **activities conducted by the department in the course of its duties shall**
6 **be easily accessible by any member of the public.**

7 **2. Each department shall broadly interpret any request for**
8 **information under section 610.023:**

9 **(1) Even if such request for information does not use the words**
10 **"sunshine request", "open records request", "public records request", or**
11 **any such similar wording;**

12 **(2) Even if the communication is simply an inquiry as to the**
13 **availability or existence of data or information; and**

14 **(3) Regardless of the format in which the communication is**
15 **made, including electronic mail, facsimile, internet, postal mail, in**
16 **person, telephone, or any other format.**

17 **3. Any failure by a department to release information shall, in**
18 **addition to any other applicable violation of law, be considered a**
19 **violation of the department's policy under this section and shall**
20 **constitute a breach of the public's trust.**

21 **4. This section shall not be construed to limit or exceed the**
22 **requirements of the provisions in chapter 610, nor shall this section**
23 **require different treatment of a record considered closed or**
24 **confidential under section 610.021 than what is required under that**
25 **section.**

192.1250. The department of health and senior services shall
2 **examine the feasibility of implementing a real-time water quality**
3 **testing system for measuring the bacterial water quality at state-owned**
4 **public beaches and shall issue a report of its findings to the general**
5 **assembly by December 31, 2011.**

247.060. 1. The management of the business and affairs of the district is
2 hereby vested in a board of directors, who shall have all the powers conferred
3 upon the district except as herein otherwise provided[, who shall serve without
4 pay]. It shall be composed of five members, each of whom shall be a voter of the
5 district and shall have resided in said district one whole year immediately prior
6 to his election. A member shall be at least twenty-five years of age and shall not
7 be delinquent in the payment of taxes at the time of his election. Except as
8 provided in subsection 2 of this section, the term of office of a member of the
9 board shall be three years. The remaining members of the board shall appoint
10 a qualified person to fill any vacancy on the board. If no qualified person who

11 lives in the subdistrict for which there is a vacancy is willing to serve on the
12 board, the board may appoint an otherwise qualified person who lives in the
13 district but not in the subdistrict in which the vacancy exists to fill such vacancy.

14 2. After notification by certified mail that he or she has two consecutive
15 unexcused absences, any member of the board failing to attend the meetings of
16 the board for three consecutive regular meetings, unless excused by the board for
17 reasons satisfactory to the board, shall be deemed to have vacated the seat, and
18 the secretary of the board shall certify that fact to the board. The vacancy shall
19 be filled as other vacancies occurring in the board.

20 3. The initial members of the board shall be appointed by the circuit court
21 and one shall serve until the immediately following first Tuesday after the first
22 Monday in April, two shall serve until the first Tuesday after the first Monday
23 in April on the second year following their appointment and the remaining
24 appointees shall serve until the first Tuesday after the first Monday in April on
25 the third year following their appointment. On the expiration of such terms and
26 on the expiration of any subsequent term, elections shall be held as otherwise
27 provided by law, and such elections shall be held in April pursuant to section
28 247.180.

29 4. In 2008, 2009, and 2010, directors elected in such years shall serve
30 from the first Tuesday after the first Monday in June until the first Tuesday in
31 April of the third year following the year of their election. All directors elected
32 thereafter shall serve from the first Tuesday in April until the first Tuesday in
33 April of the third year following the year of their election.

34 **5. Each member of the board may receive an attendance fee not**
35 **to exceed one hundred dollars for attending each regularly called board**
36 **meeting, or special meeting, but shall not be paid for attending more**
37 **than two meetings in any calendar month, except that in a county of**
38 **the first classification, a member shall not be paid for attending more**
39 **than four meetings in any calendar month. However, no board member**
40 **shall be paid more than one attendance fee if such member attends**
41 **more than one board meeting in a calendar week. In addition, the**
42 **president of the board of directors may receive fifty dollars for**
43 **attending each regularly or specially called board meeting, but shall**
44 **not be paid the additional fee for attending more than two meetings in**
45 **any calendar month. Each member of the board shall be reimbursed for**
46 **his or her actual expenditures in the performance of his or her duties**

47 on behalf of the district.

48 6. In no event, however, shall a board member receive any
49 attendance fees or additional compensation authorized in subsection
50 5 of this section until after such board member has completed a
51 minimum of six hours training regarding the responsibilities of the
52 board and its members concerning the basics of water treatment and
53 distribution, budgeting and rates, water utility planning, the funding
54 of capital improvements, the understanding of water utility financial
55 statements, the Missouri sunshine law, and this chapter.

56 7. The circuit court of the county having jurisdiction over the
57 district shall have jurisdiction over the members of the board of
58 directors to suspend any member from exercising his or her office,
59 whensoever it appears that he or she has abused his or her trust or
60 become disqualified; to remove any member upon proof or conviction
61 of gross misconduct or disqualification for his or her office; or to
62 restrain and prevent any alienation of property of the district by
63 members, in cases where it is threatened, or there is good reason to
64 apprehend that it is intended to be made in fraud of the rights and
65 interests of the district.

66 8. The jurisdiction conferred by this section shall be exercised
67 as in ordinary cases upon petition, filed by or at the instance of any
68 member of the board, or at the instance of any ten voters residing in
69 the district who join in the petition, verified by the affidavit of at least
70 one of them. The petition shall be heard in a summary manner after
71 ten days' notice in writing to the member or officer complained of. An
72 appeal shall lie from the judgment of the circuit court as in other
73 causes, and shall be speedily determined; but an appeal does not
74 operate under any condition as a supersedeas of a judgment of
75 suspension or removal from office.

253.082. 1. Upon a request from the director of the department of natural
2 resources, the commissioner of administration shall draw a warrant payable to
3 the facility head of each of the state parks and historic sites in an amount to be
4 specified by the director of the department of natural resources, but such amount
5 shall not exceed the sum of one thousand five hundred dollars for each such
6 facility. The sum so specified shall be placed in the hands of the facility head as
7 a revolving fund to be used in the payment of the incidental expenses of the
8 facility for which he has been appointed and for the refund of fees paid by the

9 public. All expenditures shall be made in accordance with rules and regulations
10 established by the commissioner of administration.

11 **2. Upon a request from the director of the department of natural**
12 **resources, the commissioner of administration shall draw a warrant**
13 **payable to the director of the division of state parks in an amount to be**
14 **specified by the director of the department of natural resources, but**
15 **such amount shall not exceed the sum of five hundred dollars. The sum**
16 **so specified shall be placed in the hands of the director of state parks**
17 **as a revolving fund to be used in the cash transactions involving the**
18 **sale of items made by the division of state parks. All transactions shall**
19 **be made in accordance with rules and regulations established by the**
20 **commissioner of administration.**

253.090. 1. All revenue derived from privileges, conveniences, contracts
2 or otherwise, all moneys received by gifts, bequests or contributions or from
3 county or municipal sources and all moneys received from the operation of
4 concessions, projects or facilities and from resale items shall be paid [into the
5 state treasury] to the credit of the "State Park Earnings Fund", which is hereby
6 **created in the state treasury. The state treasurer shall invest moneys in**
7 **the fund in the same manner as other funds are invested. Any interest**
8 **and moneys earned on such investments shall be credited to the general**
9 **revenue fund.** In the event any state park or any part thereof is taken under
10 the power of eminent domain by the federal government the moneys paid for the
11 taking shall be deposited in the state park earnings fund. The fund shall be used
12 solely for the payment of the expenditures of the department of natural resources
13 in the administration of this law, except that in any fiscal year the department
14 may expend a sum not to exceed fifty percent of the preceding fiscal year's
15 deposits to the state park earnings fund for the purpose of:

16 (1) Paying the principal and interest of revenue bonds issued;
17 (2) Providing an interest and sinking fund;
18 (3) Providing a reasonable reserve fund;
19 (4) Providing a reasonable fund for depreciation; and
20 (5) Paying for feasibility reports necessary for the issuing of revenue
21 bonds.

22 **2. Notwithstanding the provisions of section 33.080 to the**
23 **contrary, any moneys remaining in the fund at the end of the biennium**
24 **shall not revert to the credit of the general revenue fund.**

25 **3.** A good and sufficient bond conditioned upon the faithful performance
26 of the contract and compliance with this law shall be required of all contractors.

27 **[3.] 4.** Any person who contracts pursuant to this section with the state
28 shall keep true and accurate records of his or her receipts and disbursements
29 arising out of the performance of the contract and shall permit the department
30 of natural resources and the state auditor to audit such records.

31 **[4.** All moneys remaining in the state park revolving fund on July 1, 2000,
32 shall be transferred to the state park earnings fund.]

256.055. Upon a request from the director of the department of
2 **natural resources, the commissioner of administration shall draw a**
3 **warrant payable to the director of the division of geology and land**
4 **survey in an amount to be specified by the director of the department**
5 **of natural resources, but such amount shall not exceed the sum of five**
6 **hundred dollars. The sum so specified shall be placed in the hands of**
7 **the director of the division of geology and land survey as a revolving**
8 **fund to be used in the cash transactions involving the sale of items**
9 **made by the division of geology and land survey. All transactions shall**
10 **be made in accordance with rules and regulations established by the**
11 **commissioner of administration.**

 256.400. As used in sections 71.287 and 256.400 to [256.430] **256.433**,
2 unless the context clearly indicates otherwise, the following terms mean:

- 3 (1) "Department", the department of natural resources;
4 (2) "Director", the director of the department of natural resources;
5 (3) "Division", the division of geology and land survey of the department
6 of natural resources;
7 (4) "Major water user", any person, firm, corporation or the state of
8 Missouri, its agencies or corporations and any other political subdivision of this
9 state, their agencies or corporations, with a water source and equipment
10 necessary to withdraw or divert one hundred thousand gallons or more per day
11 from any stream, river, lake, well, spring or other water source;
12 (5) "State geologist", the director of the division of geology and land survey
13 of the department of natural resources;
14 (6) "Water source", any stream, river, lake, well, spring or other water
15 source.

256.433. Notwithstanding any provision of law to the contrary,
2 **no major water user shall convey water withdrawn or diverted from**

3 **within the Southeast Missouri Regional Water District created under**
4 **section 256.643 when such withdrawal or diversion and subsequent**
5 **conveyance to a location outside such district unduly interferes with**
6 **the reasonable and customary activities of a major water user**
7 **registered under section 256.410 located within said district. If such**
8 **conveyance occurs, the attorney general or the party or parties affected**
9 **may file an action for an injunction, however, in no case shall an**
10 **injunction be issued if the injunction would be detrimental to public**
11 **health or safety.**

260.262. A person selling lead-acid batteries at retail or offering lead-acid
2 batteries for retail sale in the state shall:

3 (1) Accept, at the point of transfer, in a quantity at least equal to the
4 number of new lead-acid batteries purchased, used lead-acid batteries from
5 customers, if offered by customers;

6 (2) Post written notice which must be at least four inches by six inches in
7 size and must contain the universal recycling symbol and the following language:

8 (a) It is illegal to discard a motor vehicle battery or other lead-acid
9 battery;

10 (b) Recycle your used batteries; and

11 (c) State law requires us to accept used motor vehicle batteries, or other
12 lead-acid batteries for recycling, in exchange for new batteries purchased; and

13 (3) Manage used lead-acid batteries in a manner consistent with the
14 requirements of the state hazardous waste law;

15 (4) Collect at the time of sale a fee of fifty cents for each lead-acid battery
16 sold. Such fee shall be added to the total cost to the purchaser at retail after all
17 applicable sales taxes on the battery have been computed. The fee imposed, less
18 six percent of fees collected, which shall be retained by the seller as collection
19 costs, shall be paid to the department of revenue in the form and manner
20 required by the department and shall include the total number of batteries sold
21 during the preceding month. The department of revenue shall promulgate rules
22 and regulations necessary to administer the fee collection and enforcement. The
23 terms "sold at retail" and "retail sales" do not include the sale of batteries to a
24 person solely for the purpose of resale, if the subsequent retail sale in this state
25 is to the ultimate consumer and is subject to the fee. However, this fee shall not
26 be paid on batteries sold for use in agricultural operations upon written
27 certification by the purchaser; and

28 (5) The department of revenue shall administer, collect, and enforce the
29 fee authorized pursuant to this section pursuant to the same procedures used in
30 the administration, collection, and enforcement of the general state sales and use
31 tax imposed pursuant to chapter 144 except as provided in this section. The
32 proceeds of the battery fee, less four percent of the proceeds, which shall be
33 retained by the department of revenue as collection costs, shall be transferred by
34 the department of revenue into the hazardous waste fund, created pursuant to
35 section 260.391. The fee created in subdivision (4) and this subdivision shall be
36 effective October 1, 2005. The provisions of subdivision (4) and this subdivision
37 shall terminate [June 30, 2011] **December 31, 2013.**

**260.269. Notwithstanding any provision of law to the contrary,
2 the state, including without limitation, any agency or political
3 subdivision thereof, in possession of used tires, scrap tires, or tire
4 shred may transfer possession and ownership of such tires or shred to
5 any in-state private entity to be lawfully disposed of or recycled;
6 provided, such tires or shred are not burned as a fuel except in a
7 permitted facility; and further provided, such tires shall not be
8 disposed of in a landfill; and still further provided, the cost incurred by
9 the state, agency, or political subdivision transferring such tires or
10 shred is less than the cost the state, agency, or political subdivision
11 would have otherwise incurred had it disposed of such tires or
12 shred. The private entity shall pay for the transportation of any tires
13 or tire shred received under this section.**

260.380. 1. After six months from the effective date of the standards,
2 rules and regulations adopted by the commission pursuant to section 260.370,
3 hazardous waste generators located in Missouri shall:

4 (1) Promptly file and maintain with the department, on registration forms
5 it provides for this purpose, information on hazardous waste generation and
6 management as specified by rules and regulations. Hazardous waste generators
7 shall pay a one hundred dollar registration fee upon initial registration, and a
8 one hundred dollar registration renewal fee annually thereafter to maintain an
9 active registration. Such fees shall be deposited in the hazardous waste fund
10 created in section 260.391;

11 (2) Containerize and label all hazardous wastes as specified by standards,
12 rules and regulations;

13 (3) Segregate all hazardous wastes from all nonhazardous wastes and

14 from noncompatible wastes, materials and other potential hazards as specified by
15 standards, rules and regulations;

16 (4) Provide safe storage and handling, including spill protection, as
17 specified by standards, rules and regulations, for all hazardous wastes from the
18 time of their generation to the time of their removal from the site of generation;

19 (5) Unless provided otherwise in the rules and regulations, utilize only a
20 hazardous waste transporter holding a license pursuant to sections 260.350 to
21 260.430 for the removal of all hazardous wastes from the premises where they
22 were generated;

23 (6) Unless provided otherwise in the rules and regulations, provide a
24 separate manifest to the transporter for each load of hazardous waste transported
25 from the premises where it was generated. The generator shall specify the
26 destination of such load on the manifest. The manner in which the manifest shall
27 be completed, signed and filed with the department shall be in accordance with
28 rules and regulations;

29 (7) Utilize for treatment, resource recovery, disposal or storage of all
30 hazardous wastes, only a hazardous waste facility authorized to operate pursuant
31 to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery
32 Act, or a state hazardous waste management program authorized pursuant to the
33 federal Resource Conservation and Recovery Act, or any facility exempted from
34 the permit required pursuant to section 260.395;

35 (8) Collect and maintain such records, perform such monitoring or
36 analyses, and submit such reports on any hazardous waste generated, its
37 transportation and final disposition, as specified in sections 260.350 to 260.430
38 and rules and regulations adopted pursuant to sections 260.350 to 260.430;

39 (9) Make available to the department upon request samples of waste and
40 all records relating to hazardous waste generation and management for inspection
41 and copying and allow the department to make unhampered inspections at any
42 reasonable time of hazardous waste generation and management facilities located
43 on the generator's property and hazardous waste generation and management
44 practices carried out on the generator's property;

45 (10) Pay annually, on or before January first of each year, effective
46 January 1, 1982, a fee to the state of Missouri to be placed in the hazardous
47 waste fund. The fee shall be five dollars per ton or portion thereof of hazardous
48 waste registered with the department as specified in subdivision (1) of this
49 subsection for the twelve-month period ending June thirtieth of the previous

50 year. However, the fee shall not exceed fifty-two thousand dollars per generator
51 site per year nor be less than one hundred fifty dollars per generator site per
52 year;

53 (a) All moneys payable pursuant to the provisions of this subdivision shall
54 be promptly transmitted to the department of revenue, which shall deposit the
55 same in the state treasury to the credit of the hazardous waste fund created in
56 section 260.391;

57 (b) The hazardous waste management commission shall establish and
58 submit to the department of revenue procedures relating to the collection of the
59 fees authorized by this subdivision. Such procedures shall include, but not be
60 limited to, necessary records identifying the quantities of hazardous waste
61 registered, the form and submission of reports to accompany the payment of fees,
62 the time and manner of payment of fees, which shall not be more often than
63 quarterly.

64 2. Missouri treatment, storage, or disposal facilities shall pay annually,
65 on or before January first of each year, a fee to the department equal to two
66 dollars per ton or portion thereof for all hazardous waste received from outside
67 the state. This fee shall be based on the hazardous waste received for the
68 twelve-month period ending June thirtieth of the previous year.

69 3. Exempted from the requirements of this section are individual
70 householders and farmers who generate only small quantities of hazardous waste
71 and any person the commission determines generates only small quantities of
72 hazardous waste on an infrequent basis, except that:

73 (1) Householders, farmers and exempted persons shall manage all
74 hazardous wastes they may generate in a manner so as not to adversely affect the
75 health of humans, or pose a threat to the environment, or create a public
76 nuisance; and

77 (2) The department may determine that a specific quantity of a specific
78 hazardous waste requires special management. Upon such determination and
79 after public notice by press release or advertisement thereof, including
80 instructions for handling and delivery, generators exempted pursuant to this
81 subsection shall deliver, but without a manifest or the requirement to use a
82 licensed hazardous waste transporter, such waste to:

83 (a) Any storage, treatment or disposal site authorized to operate pursuant
84 to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery
85 Act, or a state hazardous waste management program authorized pursuant to the

86 federal Resource Conservation and Recovery Act which the department designates
87 for this purpose; or

88 (b) A collection station or vehicle which the department may arrange for
89 and designate for this purpose.

90 4. Failure to pay the fee, or any portion thereof, prescribed in this section
91 by the due date shall result in the imposition of a penalty equal to fifteen percent
92 of the original fee. The fee prescribed in this section shall expire December 31,
93 [2011] 2013, except that the department shall levy and collect this fee for any
94 hazardous waste generated prior to such date and reported to the department.

260.475. 1. Every hazardous waste generator located in Missouri shall
2 pay, in addition to the fees imposed in section 260.380, a fee of twenty-five dollars
3 per ton annually on all hazardous waste which is discharged, deposited, dumped
4 or placed into or on the soil as a final action, and two dollars per ton on all other
5 hazardous waste transported off site. No fee shall be imposed upon any
6 hazardous waste generator who registers less than ten tons of hazardous waste
7 annually pursuant to section 260.380, or upon:

8 (1) Hazardous waste which must be disposed of as provided by a remedial
9 plan for an abandoned or uncontrolled hazardous waste site;

10 (2) Fly ash waste, bottom ash waste, slag waste and flue gas emission
11 control waste generated primarily from the combustion of coal or other fossil
12 fuels;

13 (3) Solid waste from the extraction, beneficiation and processing of ores
14 and minerals, including phosphate rock and overburden from the mining of
15 uranium ore and smelter slag waste from the processing of materials into
16 reclaimed metals;

17 (4) Cement kiln dust waste;

18 (5) Waste oil; or

19 (6) Hazardous waste that is:

20 (a) Reclaimed or reused for energy and materials;

21 (b) Transformed into new products which are not wastes;

22 (c) Destroyed or treated to render the hazardous waste nonhazardous; or

23 (d) Waste discharged to a publicly owned treatment works.

24 2. The fees imposed in this section shall be reported and paid to the
25 department on an annual basis not later than the first of January. The payment
26 shall be accompanied by a return in such form as the department may prescribe.

27 3. All moneys collected or received by the department pursuant to this

28 section shall be transmitted to the department of revenue for deposit in the state
29 treasury to the credit of the hazardous waste fund created pursuant to section
30 260.391. Following each annual reporting date, the state treasurer shall certify
31 the amount deposited in the fund to the commission.

32 4. If any generator or transporter fails or refuses to pay the fees imposed
33 by this section, or fails or refuses to furnish any information reasonably requested
34 by the department relating to such fees, there shall be imposed, in addition to the
35 fee determined to be owed, a penalty of fifteen percent of the fee shall be
36 deposited in the hazardous waste fund.

37 5. If the fees or any portion of the fees imposed by this section are not
38 paid by the date prescribed for such payment, there shall be imposed interest
39 upon the unpaid amount at the rate of ten percent per annum from the date
40 prescribed for its payment until payment is actually made, all of which shall be
41 deposited in the hazardous waste fund.

42 6. The state treasurer is authorized to deposit all of the moneys in the
43 hazardous waste fund in any of the qualified depositories of the state. All such
44 deposits shall be secured in such a manner and shall be made upon such terms
45 and conditions as are now or may hereafter be provided for by law relative to
46 state deposits. Interest received on such deposits shall be credited to the
47 hazardous waste fund.

48 7. This fee shall expire December 31, [2011] **2013**, except that the
49 department shall levy and collect this fee for any hazardous waste generated
50 prior to such date and reported to the department.

260.965. The provisions of sections 260.900 to 260.965 shall expire
2 [August 28, 2012] **December 31, 2017**.

**319.130. 1. On or before April 1, 2012, the board of trustees of the
2 petroleum storage tank insurance fund shall hold one or more public
3 hearings to determine whether to create and fund an underground
4 storage tank operator training program. The board shall consider at
5 a minimum:**

6 **(1) Input from the department of natural resources, the
7 department of agriculture, the board's advisory committee, and affected
8 portions of the private sector;**

9 **(2) Relevant deadlines, time frames, costs, and benefits,
10 including federal funding consequences for the state's underground
11 storage tank regulatory program if such a training program is not**

12 implemented;

13 (3) Training programs already in existence in other states;

14 (4) Training programs already being used by tank owners and
15 operators; and

16 (5) Such other factors as the board deems necessary and prudent.

17 2. If after completing the requirements of subsection 1 of this
18 section, the board decides by majority vote to create and fund an
19 underground storage tank operator training program, the training
20 program shall at a minimum:

21 (1) Satisfy the federal requirements for such a program;

22 (2) Be developed in collaboration with the department of natural
23 resources, the department of agriculture, the board's advisory
24 committee, and affected portions of the private sector;

25 (3) Be offered at no cost to those who are required to participate;

26 (4) Specify standards, reporting, and documentation
27 requirements; and

28 (5) Be established by rule.

29 3. The board may contract with one or more third parties to
30 carry out the requirements of this section.

31 4. At any time after the board creates and funds the underground
32 storage tank operator training program under subsection 2 of this
33 section, the board may, by rule, modify or eliminate the program.

34 5. Any records created or maintained by the board as part of the
35 underground storage tank operator training program created herein
36 shall be public records under chapter 610 and shall be made readily
37 available to the department of natural resources.

38 6. Any rule or portion of a rule, as that term is defined in section
39 536.010, that is created under the authority delegated in this section
40 shall become effective only if it complies with and is subject to all of
41 the provisions of chapter 536 and, if applicable, section 536.028. This
42 section and chapter 536 are nonseverable and if any of the powers
43 vested with the general assembly under chapter 536 to review, to delay
44 the effective date, or to disapprove and annul a rule are subsequently
45 held unconstitutional, then the grant of rulemaking authority and any
46 rule proposed or adopted after August 28, 2011, shall be invalid and
47 void.

319.132. 1. The board shall assess a surcharge on all petroleum products

2 within this state which are enumerated by section 414.032. Except as specified
3 by this section, such surcharge shall be administered pursuant to the provisions
4 of subsections 1 [to 3] **through 5** of section 414.102 and subsections 1 and 2 of
5 section 414.152. Such surcharge shall be imposed upon such petroleum products
6 within this state and shall be assessed on each transport load, or the equivalent
7 of an average transport load if moved by other means. All revenue generated by
8 the assessment of such surcharges shall be deposited to the credit of the special
9 trust fund known as the petroleum storage tank insurance fund.

10 2. Any person who claims to have paid the surcharge in error may file a
11 claim for a refund with the board within three years of the payment. The claim
12 shall be in writing and signed by the person or the person's legal
13 representative. The board's decision on the claim shall be in writing and may be
14 delivered to the person by first class mail. Any person aggrieved by the board's
15 decision may seek judicial review by bringing an action against the board in the
16 circuit court of Cole County pursuant to section 536.150 no later than sixty days
17 following the date the board's decision was mailed. The department of revenue
18 shall not be a party to such proceeding.

19 3. The board shall assess and annually reassess the financial soundness
20 of the petroleum storage tank insurance fund.

21 4. (1) The board shall set, in a public meeting with an opportunity for
22 public comment, the rate of the surcharge that is to be assessed on each such
23 transport load or equivalent but such rate shall be no more than sixty dollars per
24 transport load or an equivalent thereof. A transport load shall be deemed to be
25 eight thousand gallons.

26 (2) The board may increase or decrease the surcharge, up to a maximum
27 of sixty dollars, only after giving at least sixty days' notice of its intention to alter
28 the surcharge; provided however, the board shall not increase the surcharge by
29 more than fifteen dollars in any year. The board must coordinate its actions with
30 the department of revenue to allow adequate time for implementation of the
31 surcharge change.

32 (3) If the fund's cash balance on the first day of any month exceeds the
33 sum of its liabilities, plus ten percent, the transport load fee shall automatically
34 revert to twenty-five dollars per transport load on the first day of the second
35 month following this event.

36 (4) Moneys generated by this surcharge shall not be used for any purposes
37 other than those outlined in sections 319.129 through 319.133 and section

38 319.138. Nothing in this subdivision shall limit the board's authority to contract
39 with the department of natural resources pursuant to section 319.129 to carry out
40 the purposes of the fund as determined by the board.

41 5. The board shall ensure that the fund retain a balance of at least twelve
42 million dollars but not more than one hundred million dollars. If, at the end of
43 any quarter, the fund balance is above one hundred million dollars, the treasurer
44 shall notify the board thereof. The board shall suspend the collection of fees
45 pursuant to this section beginning on the first day of the first quarter following
46 the receipt of notice. If, at the end of any quarter, the fund balance is below
47 twenty million dollars, the treasurer shall notify the board thereof. The board
48 shall reinstate the collection of fees pursuant to this section beginning on the first
49 day of the first quarter following the receipt of notice.

50 6. Railroad corporations as defined in section 388.010 and airline
51 companies as defined in section 155.010 shall not be subject to the load fee
52 described in this chapter nor permitted to participate in or make claims against
53 the petroleum storage tank insurance fund created in section 319.129.

414.072. 1. At least every six months, the director shall test and inspect
2 the measuring devices used by any person selling an average of two hundred or
3 more gallons of gasoline, gasoline-alcohol blends, diesel fuel, heating oil,
4 kerosene, or aviation turbine fuel per month at either retail or wholesale in this
5 state, except marine installations, which shall be tested and inspected at least
6 once per year.

7 **2. The manufacturer's expiration date on motor fuel pump**
8 **nozzles, hoses, and hose breakaway equipment shall not be the sole**
9 **factor in requiring the repair or replacement of such devices and**
10 **equipment nor in the instance of any fine, penalty, or punishment by**
11 **the state or any political subdivision. The manufacturer's expiration**
12 **date on motor fuel pump nozzles, hoses, and hose breakaway equipment**
13 **shall not impose any new or additional liability on the state, political**
14 **subdivisions, motor fuel retailers, wholesalers, suppliers, and**
15 **distributors, and the retailers and wholesalers of such devices and**
16 **equipment.**

17 3. When the director finds that any measuring device does not correctly
18 and accurately register and measure the monetary cost, if applicable, or the
19 volume sold, he shall require the correction, removal, or discontinuance of the
20 same.

21 [3.] 4. Notwithstanding any other law or rule to the contrary, it has been
22 and continues to be the public policy of this state to prohibit gasoline and diesel
23 motor fuel in a retail sale transaction from being dispensed by any measuring
24 device or equipment that is not approved by the department of agriculture or the
25 National Type Evaluation Program (NTEP). **Any automatic volumetric**
26 **correction device for measuring gasoline, gasoline-alcohol blends,**
27 **diesel fuel, and diesel fuel-biodiesel blends sold at retail fueling**
28 **facilities is prohibited by state rule or the automatic adoption or**
29 **incorporation of national standards or rules unless the device is first**
30 **specifically authorized and required by state statute.**

621.250. 1. All authority to hear appeals granted in chapters 260, 444,
2 640, 643, and 644, and to the hazardous waste management commission in
3 chapter 260, the land reclamation commission in chapter 444, the safe drinking
4 water commission in chapter 640, the air conservation commission in chapter 643,
5 and the clean water commission in chapter 644 shall be transferred to the
6 administrative hearing commission under this chapter. The authority to render
7 final decisions after hearing on appeals heard by the administrative hearing
8 commission shall remain with the commissions listed in this subsection. The
9 [commissions listed in this subsection] **administrative hearing commission**
10 **may render a recommended final [decisions] decision** after hearing or through
11 stipulation, consent order, agreed settlement or by disposition in the nature of
12 default judgment, judgment on the pleadings, or summary determination,
13 consistent with **the requirements of this subsection and** the rules and
14 procedures of the administrative hearing commission.

15 2. Except as otherwise provided by law, any person or entity who is a
16 party to, or who is **aggrieved or adversely** affected by, any finding, order,
17 decision, or assessment for which the authority to hear appeals was transferred
18 to the administrative hearing commission in subsection 1 of this section may file
19 a notice of appeal with the administrative hearing commission within thirty days
20 after any such finding, order, decision, or assessment is placed in the United
21 States mail or within thirty days of any such finding, order, decision, or
22 assessment being delivered, whichever is earlier. **Within sixty days after the**
23 **date on which the notice of appeal is filed** the administrative hearing
24 commission [may] **shall hold hearings and make a recommended decision**
25 **based on those hearings** or [may] **shall make a recommended [decisions]**
26 **decision** based on stipulation of the parties, consent order, agreed settlement or

27 by disposition in the nature of default judgment, judgment on the pleadings, or
28 summary determination, in accordance with **the requirements of this**
29 **subsection and** the rules and procedures of the administrative hearing
30 commission.

31 3. Any decision by the director of the department of natural resources that
32 may be appealed [to the commissions listed] **as provided** in subsection 1 of this
33 section [and] shall contain a notice of the right of appeal in substantially the
34 following language: "If you were adversely affected by this decision, you may
35 appeal to have the matter heard by the administrative hearing commission. To
36 appeal, you must file a petition with the administrative hearing commission
37 within thirty days after the date this decision was mailed or the date it was
38 delivered, whichever date was earlier. If any such petition is sent by registered
39 mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent
40 by any method other than registered mail or certified mail, it will be deemed filed
41 on the date it is received by the administrative hearing commission.". Within
42 fifteen days after the administrative hearing commission renders its
43 recommended decision, it shall transmit the record and a transcript of the
44 proceedings, together with the administrative hearing commission's recommended
45 decision to the commission having authority to issue a final decision. The **final**
46 decision of the commission **shall be issued within ninety days of the date**
47 **the notice of appeal is filed and** shall be based only on the facts and evidence
48 in the hearing record. The commission may adopt the recommended decision as
49 its final decision. The commission may change a finding of fact or conclusion of
50 law made by the administrative hearing commission, or may vacate or modify the
51 recommended decision issued by the administrative hearing commission, only if
52 the commission states in writing the specific reason for a change made under this
53 subsection.

54 4. In the event the person filing the appeal prevails in any dispute under
55 this section, interest shall be allowed upon any amount found to have been
56 wrongfully collected or erroneously paid at the rate established by the director of
57 the department of revenue under section 32.065.

58 5. Appropriations shall be made from the respective funds of the various
59 commissions to cover the administrative hearing commission's costs associated
60 with these appeals.

61 6. In all matters heard by the administrative hearing commission under
62 this section, the burden of proof shall comply with section 640.012. The hearings

63 shall be conducted by the administrative hearing commission in accordance with
64 the provisions of chapter 536 and its regulations promulgated thereunder.

65 **7. No cause of action or appeal arising out of any finding, order,**
66 **decision, or assessment of any of the commissions listed in subsection**
67 **1 of this section shall accrue in any court unless the party seeking to**
68 **file such cause of action or appeal shall have filed a notice of appeal**
69 **and received a final decision in accordance with the provisions of this**
70 **section.**

640.018. 1. In any case where the department has not issued a
2 **permit or rendered a permit decision by the expiration of a statutorily-**
3 **required time frame for any application for a permit under this chapter**
4 **or chapters 260, 278, 319, 444, 643, or 644, the permit shall be issued as**
5 **of the first day following the expiration of the required time frame,**
6 **provided all necessary information has been submitted for the**
7 **application and the department has been in possession of all such**
8 **information for the duration of the required time frame. This**
9 **subsection shall be considered in addition to, and not in lieu thereof,**
10 **any other provision of law regarding consequences of failure by the**
11 **department to issue a permit or permit decision by the expiration of a**
12 **required time frame.**

13 **2. If engineering plans, specifications, and designs prepared by**
14 **a registered professional engineer are submitted to the department of**
15 **natural resources as a part of a permit application or permit**
16 **modification, the permit application or permit modification shall**
17 **include a statement that the plans, specifications, and designs were**
18 **prepared in accordance with the applicable requirements and shall be**
19 **sealed by the registered professional engineer in accordance with**
20 **section 327.411, as applicable. The department shall use the complete,**
21 **sealed engineering plans, specifications, and designs as submitted in**
22 **addition to permit applications and other relevant information,**
23 **documents, and materials in developing comments on the engineering**
24 **submittals and in determining whether to issue or deny permits. The**
25 **review of documents, plans, specifications, and designs sealed by a**
26 **registered professional engineer for an applicant shall be conducted by**
27 **a registered professional engineer or an engineering intern on behalf**
28 **of the department.**

29 **3. The department shall designate supervisory registered**

30 professional engineers for permitting purposes under this chapter and
31 chapters 260, 278, 319, 444, 643, and 644. Any permit applicant
32 receiving written comments on an engineering submittal may request
33 a determination from the department's supervisory registered
34 professional engineer as to a final disposition of the department's
35 comments regarding engineering submittals in determining a decision
36 on the permit. The department's supervisory engineer shall inform the
37 permit applicant of a preliminary decision within fifteen days after the
38 permit applicant's request for a determination and shall make a final
39 determination within thirty days of such request.

40 4. Nothing in this section shall be construed to require plans or
41 other submittals to the department pursuant to an application to come
42 under a general permit or an application for a site specific permit to
43 be prepared by a registered professional engineer, unless otherwise
44 required under state or federal law.

640.045. Upon a request from the director of the department of
2 natural resources, the commissioner of administration shall draw a
3 warrant payable to any and all of the directors of the various divisions
4 of the department in amounts to be specified by the director of the
5 department of natural resources, but such amounts shall not exceed the
6 sum of five hundred dollars each. The sum so specified shall be placed
7 in the hands of the director of the relevant division as a revolving fund
8 to be used in the cash transactions involving the sale of items made by
9 that division. All transactions shall be made in accordance with rules
10 and regulations established by the commissioner of administration.

640.116. 1. Any water system that exclusively serves a charitable
2 or benevolent organization, if the system does not regularly serve an
3 average of one hundred persons or more at least sixty days out of the
4 year and the system does not serve a school or daycare facility, shall be
5 exempt from all rules relating to well construction except any rules
6 established under sections 256.600 to 256.640 applying to multifamily
7 wells, unless such wells or pump installations for such wells are
8 determined to present a threat to groundwater or public health.

9 2. If the system incurs three or more total coliform maximum
10 contaminant level violations in a twelve-month period or one acute
11 maximum contaminant level violation, the system owner shall either
12 provide an alternate source of water, eliminate the source of

13 **contamination, or provide treatment that reliably achieves at least**
14 **ninety-nine and ninety-nine one-hundredths percent treatment of**
15 **viruses.**

16 **3. Notwithstanding this or any other provision of law to the**
17 **contrary, no facility otherwise described in subsection 1 of this section**
18 **shall be required to replace, change, upgrade, or otherwise be**
19 **compelled to alter an existing well constructed prior to August 28, 2011,**
20 **unless such well is determined to present a threat to groundwater or**
21 **public health or contains the contaminant levels referred to in**
22 **subsection 2 of this section.**

640.128. If an entity that holds a permit issued under chapter 644
2 **or under sections 640.100 to 640.140 voluntarily reports to the**
3 **department of natural resources the results of any water quality testing**
4 **conducted by the entity, and such results indicate a potential risk to**
5 **public health, the department shall immediately notify the local public**
6 **health authority and the department of health and senior services.**

640.850. The governor shall convene a committee of
2 **representatives of the departments of health and senior services,**
3 **natural resources, economic development, agriculture, and**
4 **conservation. The committee shall evaluate opportunities for**
5 **consolidating services with the goal of improving efficiency and**
6 **reducing cost while optimizing the benefits to the citizens of Missouri.**
7 **As part of its evaluation, the committee shall specifically consider the**
8 **transfer of the division of energy from the department of natural**
9 **resources to the department of economic development and the**
10 **consolidation of water quality laboratory testing under the department**
11 **of health and senior services for purposes of meeting water testing**
12 **requirements of the federal Safe Drinking Water Act and the Federal**
13 **Water Pollution Control Act. The committee shall provide**
14 **recommendations to the governor and general assembly no later than**
15 **December 31, 2011.**

643.020. When used in this chapter and in standards, rules and
2 **regulations promulgated under authority of this chapter, the following words and**
3 **phrases mean:**

4 (1) "AHERA", Asbestos Hazard Emergency Response Act of 1986 (P.L.
5 99-519);

6 (2) "Abatement project designer", an individual who designs or plans

7 AHERA asbestos abatement;

8 (3) "Air cleaning device", any method, process, or equipment which
9 removes, reduces, or renders less obnoxious air contaminants discharged into
10 ambient air;

11 (4) "Air contaminant", any particulate matter or any gas or vapor or any
12 combination thereof;

13 (5) "Air contaminant source", any and all sources of air contaminants
14 whether privately or publicly owned or operated;

15 (6) "Air pollution", the presence in the ambient air of one or more air
16 contaminants in quantities, of characteristics and of a duration which directly
17 and proximately cause or contribute to injury to human, plant, or animal life or
18 health or to property or which unreasonably interferes with the enjoyment of life
19 or use of property;

20 (7) "Ambient air", all space outside of buildings, stacks, or exterior ducts;

21 (8) "Area of the state", any geographical area designated by the
22 commission;

23 (9) "Asbestos", the asbestiform varieties of chrysotile, crocidolite, amosite,
24 anthophyllite, tremolite and actinolite;

25 (10) "Asbestos abatement", the encapsulation, enclosure or removal of
26 [asbestos containing] **asbestos-containing** materials in or from a building or
27 air contaminant source, or preparation of friable [asbestos containing] **asbestos-**
28 **containing** material prior to demolition;

29 (11) "Asbestos abatement contractor", any person who by agreement,
30 contractual or otherwise, conducts asbestos abatement projects at a location other
31 than his own place of business;

32 (12) "Asbestos abatement projects", an activity undertaken to encapsulate,
33 enclose or remove [ten] **one hundred sixty** square feet or [sixteen] **two**
34 **hundred sixty** linear feet or **thirty-five cubic feet or** more of [friable asbestos
35 containing] **regulated asbestos-containing** materials from buildings and other
36 air contaminant sources, or to demolish buildings and other air contaminant
37 sources containing [ten] **one hundred sixty** square feet or [sixteen] **two**
38 **hundred sixty** linear feet or **thirty-five cubic feet or more of regulated**
39 **asbestos-containing materials**;

40 (13) "Asbestos abatement supervisor", an individual who directs, controls,
41 or supervises others in asbestos abatement projects;

42 (14) "Asbestos abatement worker", an individual who engages in asbestos

43 abatement projects;

44 (15) "Asbestos air sampling professional", an individual who by
45 qualifications and experience is proficient in asbestos abatement air
46 monitoring. The individual shall conduct, oversee or be responsible for air
47 monitoring of asbestos abatement projects before, during and after the project has
48 been completed;

49 (16) "Asbestos air sampling technician", an individual who has been
50 trained by an air sampling professional to do air monitoring. Such individual
51 conducts air monitoring of an asbestos abatement project before, during and after
52 the project has been completed;

53 (17) "[Asbestos containing] **asbestos-containing** material", any material
54 or product which contains more than one percent asbestos[, by weight];

55 (18) "Class A source", either a class A1, A2 or A3 source as defined in this
56 section;

57 (19) "Class A1 source", any air contaminant source with the potential to
58 emit equal to or greater than one hundred tons per year of an air contaminant;

59 (20) "Class A2 source", any air contaminant source, which is not a class
60 A1 source, and with the potential, air cleaning devices not considered, to emit
61 equal to or greater than one hundred tons per year of an air contaminant;

62 (21) "Class A3 source", any air contaminant source which emits or has the
63 potential to emit, ten tons per year or more of any hazardous air pollutant or
64 twenty-five tons of any combination of hazardous air pollutants, or as defined
65 pursuant to section 112 of the federal Clean Air Act, as amended, 42 U.S.C. 7412;

66 (22) "Class B source", any air contaminant source with the potential, air
67 cleaning devices not considered, to emit equal to or greater than the de minimis
68 amounts of an air contaminant established by the commission, but not a class A
69 source;

70 (23) "Commission", the air conservation commission of the state of
71 Missouri created in section 643.040;

72 (24) "Competent person", as defined in the United States Occupational
73 Safety and Health Administration's (OSHA) standard 29 CFR [1926.58]
74 **1926.1101** (b). Such person shall also be a certified asbestos abatement
75 supervisor;

76 (25) "Conference, conciliation and persuasion", a process of verbal or
77 written communications consisting of meetings, reports, correspondence or
78 telephone conferences between authorized representatives of the department and

79 the alleged violator. The process shall, at a minimum, consist of one offer to meet
80 with the alleged violator tendered by the department. During any such meeting,
81 the department and the alleged violator shall negotiate in good faith to eliminate
82 the alleged violation and shall attempt to agree upon a plan to achieve
83 compliance;

84 (26) "De minimis source", any air contaminant source with a potential to
85 emit an air contaminant, air cleaning devices not considered, less than that
86 established by the commission as de minimis for the air contaminant;

87 (27) "Department", the department of natural resources of the state of
88 Missouri;

89 (28) "Director", the director of the department of natural resources;

90 (29) "Emergency asbestos project", an asbestos project that must be
91 undertaken immediately to prevent imminent, severe, human exposure or to
92 restore essential facility operation;

93 (30) "Emission", the discharge or release into the atmosphere of one or
94 more air contaminants;

95 (31) "Emission control regulations", limitations on the emission of air
96 contaminants into the ambient air;

97 (32) "Friable [asbestos containing] **asbestos-containing** material", any
98 [asbestos containing material which is applied to ceilings, walls, structural
99 members, piping, ductwork or any other part of a building or other air
100 contaminant sources and which, when dry, may be crumbled, pulverized or
101 reduced to powder by hand pressure] **material containing more than one**
102 **percent, as determined by either the method specified in appendix E,**
103 **section 1 Polarized Light Microscopy in 40 CFR Part 61, Subpart M or**
104 **EPA/600/R-93/116 Method for the Determination of Asbestos in Bulk**
105 **Building Materials, asbestos that, when dry, can be crumbled,**
106 **pulverized or reduced to powder by hand pressure;**

107 (33) "Grinding", to reduce to powder or small fragments and
108 includes mechanical chipping or drilling;

109 [(33)] (34) "Inspector", an individual[, under AHERA,] who collects and
110 assimilates information used to determine whether [asbestos containing]
111 **asbestos-containing** material is present in a building or other air contaminant
112 sources;

113 [(34)] (35) "Management planner", an individual, under AHERA, who
114 devises and writes plans for asbestos abatement;

115 [(35)] (36) "Minor violation", a violation which possesses a small
116 potential to harm the environment or human health or cause pollution, was not
117 knowingly committed, and is not defined by the United States Environmental
118 Protection Agency as other than minor;

119 [(36)] (37) "Nonattainment area", any area designated by the governor
120 as a "nonattainment area" as defined in the federal Clean Air Act, as amended,
121 42 U.S.C. 7501;

122 (38) "Nonfriable asbestos-containing material", any material
123 containing more than one percent asbestos as determined by either the
124 method specified in appendix E, section 1 Polarized Light Microscopy
125 in 40 CFR Part 61, Subpart M or EPA/600/R-93/116 Method for the
126 Determination of Asbestos in Bulk Building Materials, that, when dry,
127 cannot be crumbled, pulverized or reduced to powder by hand pressure;

128 [(37)] (39) "Person", any individual, partnership, copartnership, firm,
129 company, or public or private corporation, association, joint stock company, trust,
130 estate, political subdivision, or any agency, board, department, or bureau of the
131 state or federal government, or any other legal entity whatever which is
132 recognized by law as the subject of rights and duties;

133 [(38)] (40) "Regulated asbestos-containing material" or "RACM":

134 (a) Friable asbestos-containing material;

135 (b) Category I nonfriable asbestos-containing material that will
136 be or has been subjected to sanding, grinding, cutting, or abrading; or

137 (c) Category II nonfriable asbestos-containing material that has
138 a high probability of becoming or has become crumbled, pulverized, or
139 reduced to powder by the forces expected to act on the material in the
140 course of demolition or renovation operations;

141 (41) "School district", seven-director districts, urban school
142 districts, and metropolitan school districts, as defined in section
143 160.011;

144 (42) "Small business", for the purpose of sections 643.010 to [643.190]
145 643.355, a small business shall include any business regulated under this
146 chapter, which is not a class A source and which employs less than one hundred
147 people and emits less than fifty tons of any regulated pollutant per year and less
148 than seventy-five tons of all regulated pollutants or as otherwise defined by the
149 commission by rule.

643.040. 1. There is created hereby an air pollution control agency to be

2 known as the "Air Conservation Commission of the State of Missouri", whose
3 domicile for the purposes of sections 643.010 to [643.190] **643.355** is the
4 department of natural resources of the state of Missouri. The commission shall
5 consist of seven members appointed by the governor, with the advice and consent
6 of the senate. No more than four of the members shall belong to the same
7 political party and no two members shall be a resident of and domiciled in the
8 same senatorial district. At the first meeting of the commission and at yearly
9 intervals thereafter, the members shall select from among themselves a chairman
10 and a vice chairman.

11 2. All members shall be representative of the general interest of the public
12 and shall have an interest in and knowledge of air conservation and the effects
13 and control of air contaminants. At least three of such members shall represent
14 agricultural, industrial and labor interests, respectively. The governor shall not
15 appoint any other person who has a substantial interest as defined in section
16 105.450 in any business entity regulated under this chapter or any business
17 entity which would be regulated under this chapter if located in Missouri. The
18 commission shall establish rules of procedure which specify when members shall
19 exempt themselves from participating in discussions and from voting on issues
20 before the commission due to potential conflict of interest.

21 3. The members' terms of office shall be four years and until their
22 successors are selected and qualified, except that the terms of those first
23 appointed shall be staggered to expire at intervals of one, two and three years
24 after the date of appointment as designated by the governor at the time of
25 appointment. There is no limitation of the number of terms any appointed
26 member may serve. If a vacancy occurs the governor may appoint a member for
27 the remaining portion of the unexpired term created by the vacancy. The
28 governor may remove any appointed member for cause. The members of the
29 commission shall be reimbursed for travel and other expenses actually and
30 necessarily incurred in the performance of their duties.

31 4. The commission shall hold at least nine regular meetings each year and
32 such additional regular meetings as the chairman deems desirable at a place and
33 time to be fixed by the chairman. Special meetings may be called by three
34 members of the commission upon delivery of written notice to each member of the
35 commission. Reasonable written notice of all meetings shall be given to all
36 members of the commission. Four members of the commission shall constitute a
37 quorum. All powers and duties conferred upon members of the commission shall

38 be exercised personally by the members and not by alternates or representatives.
39 All actions of the commission shall be taken at meetings open to the public,
40 except as provided in chapter 610. Any member absent from four regular
41 commission meetings per calendar year for any cause whatsoever shall be deemed
42 to have resigned and the vacancy shall be filled immediately in accordance with
43 subsection 1 and subsection 3 of this section.

643.050. 1. In addition to any other powers vested in it by law the
2 commission shall have the following powers:

3 (1) Adopt, promulgate, amend and repeal rules and regulations consistent
4 with the general intent and purposes of sections 643.010 to [643.190] **643.355**,
5 chapter 536, and Titles V and VI of the federal Clean Air Act, as amended, 42
6 U.S.C. 7661, et seq., including but not limited to:

7 (a) Regulation of use of equipment known to be a source of air
8 contamination;

9 (b) Establishment of maximum quantities of air contaminants that may
10 be emitted from any air contaminant source; and

11 (c) Regulations necessary to enforce the provisions of Title VI of the Clean
12 Air Act, as amended, 42 U.S.C. 7671, et seq., regarding any Class I or Class II
13 substances as defined therein;

14 (2) After holding public hearings in accordance with section 643.070,
15 establish areas of the state and prescribe air quality standards for such areas
16 giving due recognition to variations, if any, in the characteristics of different
17 areas of the state which may be deemed by the commission to be relevant;

18 (3) (a) To require persons engaged in operations which result in air
19 pollution to monitor or test emissions and to file reports containing information
20 relating to rate, period of emission and composition of effluent;

21 (b) Require submission to the director for approval of plans and
22 specifications for any article, machine, equipment, device, or other contrivance
23 specified by regulation the use of which may cause or control the issuance of air
24 contaminants; but any person responsible for complying with the standards
25 established under sections 643.010 to [643.190] **643.355** shall determine, unless
26 found by the director to be inadequate, the means, methods, processes, equipment
27 and operation to meet the established standards;

28 (4) Hold hearings upon appeals from orders of the director or from any
29 other actions or determinations of the director hereunder for which provision is
30 made for appeal, and in connection therewith, issue subpoenas requiring the

31 attendance of witnesses and the production of evidence reasonably relating to the
32 hearing;

33 (5) Enter such order or determination as may be necessary to effectuate
34 the purposes of sections 643.010 to [643.190] **643.355**. In making its orders and
35 determinations hereunder, the commission shall exercise a sound discretion in
36 weighing the equities involved and the advantages and disadvantages to the
37 person involved and to those affected by air contaminants emitted by such person
38 as set out in section 643.030. If any small business, as defined by section
39 643.020, requests information on what would constitute compliance with the
40 requirements of sections 643.010 to [643.190] **643.355** or any order or
41 determination of the department or commission, the department shall respond
42 with written criteria to inform the small business of the actions necessary for
43 compliance. No enforcement action shall be undertaken by the department or
44 commission until the small business has had a period of time, negotiated with the
45 department, to achieve compliance;

46 (6) Cause to be instituted in a court of competent jurisdiction legal
47 proceedings to compel compliance with any final order or determination entered
48 by the commission or the director;

49 (7) Settle or compromise in its discretion, as it may deem advantageous
50 to the state, any suit for recovery of any penalty or for compelling compliance
51 with the provisions of any rule;

52 (8) Develop such facts and make such investigations as are consistent
53 with the purposes of sections 643.010 to [643.190] **643.355**, and, in connection
54 therewith, to enter or authorize any representative of the department to enter at
55 all reasonable times and upon reasonable notice in or upon any private or public
56 property for the purpose of inspecting or investigating any condition which the
57 commission or director shall have probable cause to believe to be an air
58 contaminant source **or upon any private or public property having**
59 **material information relevant to said air contaminant source**. The
60 results of any such investigation shall be reduced to writing, and a copy thereof
61 shall be furnished to the owner or operator of the property. No person shall
62 refuse entry or access, requested for purposes of inspection under this provision,
63 to an authorized representative of the department who presents appropriate
64 credentials, nor obstruct or hamper the representative in carrying out the
65 inspection. A suitably restricted search warrant, upon a showing of probable
66 cause in writing and upon oath, shall be issued by any judge having jurisdiction

67 to any such representative for the purpose of enabling him to make such
68 inspection;

69 (9) Secure necessary scientific, technical, administrative and operational
70 services, including laboratory facilities, by contract or otherwise, with any
71 educational institution, experiment station, or any board, department, or other
72 agency of any political subdivision or state or the federal government;

73 (10) Classify and identify air contaminants; and

74 (11) Hold public hearings as required by sections 643.010 to [643.190]
75 **643.355**.

76 2. No rule or portion of a rule promulgated under the authority of this
77 chapter shall become effective unless it has been promulgated pursuant to the
78 provisions of section 536.024.

79 3. The commission shall have the following duties with respect to the
80 prevention, abatement and control of air pollution:

81 (1) Prepare and develop a general comprehensive plan for the prevention,
82 abatement and control of air pollution;

83 (2) Encourage voluntary cooperation by persons or affected groups to
84 achieve the purposes of sections 643.010 to [643.190] **643.355**;

85 (3) Encourage political subdivisions to handle air pollution problems
86 within their respective jurisdictions to the extent possible and practicable and
87 provide assistance to political subdivisions;

88 (4) Encourage and conduct studies, investigations and research;

89 (5) Collect and disseminate information and conduct education and
90 training programs;

91 (6) Advise, consult and cooperate with other agencies of the state, political
92 subdivisions, industries, other states and the federal government, and with
93 interested persons or groups;

94 (7) Represent the state of Missouri in all matters pertaining to interstate
95 air pollution including the negotiations of interstate compacts or agreements.

96 4. Nothing contained in sections 643.010 to [643.190] **643.355** shall be
97 deemed to grant to the commission or department any jurisdiction or authority
98 with respect to air pollution existing solely within commercial and industrial
99 plants, works, or shops or to affect any aspect of employer-employee relationships
100 as to health and safety hazards.

101 5. Any information relating to secret processes or methods of manufacture
102 or production discovered through any communication required under this section

103 shall be kept confidential.

643.060. In addition to any other powers vested by law, the director shall
2 have the following powers and duties:

3 (1) Retain, employ, provide for, and compensate, within appropriations
4 available therefor, such consultants, assistants, deputies, clerks, and other
5 employees on a full- or part-time basis as may be necessary to carry out the
6 provisions of sections 643.010 to [643.190] **643.355** and prescribe the times at
7 which they shall be appointed and their powers and duties;

8 (2) Accept, receive and administer grants or other funds or gifts from
9 public and private agencies including the federal government for the purpose of
10 carrying out any of the functions of sections 643.010 to [643.190] **643.355**. The
11 director shall apply for all available grants and funds authorized and distributed
12 pursuant to Title XI of the federal Clean Air Act, as amended, 29 U.S.C. 1662e,
13 for training, assistance and payments to eligible individuals. The director shall
14 report annually to the governor and the general assembly, the amount of revenue
15 received under Title XI of the Clean Air Act and the distribution of such funds
16 to eligible persons. Funds received by the director pursuant to this section shall
17 be deposited with the state treasurer and held and disbursed by him in
18 accordance with the appropriations of the general assembly. The director is
19 authorized to enter into contracts as he may deem necessary for carrying out the
20 provisions of sections 643.010 to [643.190] **643.355**;

21 (3) Budget and receive duly appropriated moneys for expenditures to carry
22 out the provisions and purposes of sections 643.010 to [643.190] **643.355**;

23 (4) Administer and enforce sections 643.010 to [643.190] **643.355**,
24 investigate complaints, issue orders and take all actions necessary to implement
25 sections 643.010 to [643.190] **643.355**;

26 (5) Receive and act upon reports, plans, specifications and applications
27 submitted under rules promulgated by the commission. Any person aggrieved by
28 any action of the director under this provision shall be entitled to a hearing
29 before the commission as provided in section 643.080. The commission may
30 sustain, reverse, or modify any action of the director taken under this provision,
31 or make such other order as the commission shall deem appropriate under the
32 circumstances.

643.079. 1. Any air contaminant source required to obtain a permit
2 issued under sections 643.010 to [643.190] **643.355** shall pay annually beginning
3 April 1, 1993, a fee as provided herein. For the first year the fee shall be

4 twenty-five dollars per ton of each regulated air contaminant
5 emitted. Thereafter, the fee shall be set every three years by the commission by
6 rule and shall be at least twenty-five dollars per ton of regulated air contaminant
7 emitted but not more than forty dollars per ton of regulated air contaminant
8 emitted in the previous calendar year. If necessary, the commission may make
9 annual adjustments to the fee by rule. The fee shall be set at an amount
10 consistent with the need to fund the reasonable cost of administering sections
11 643.010 to [643.190] **643.355**, taking into account other moneys received
12 pursuant to sections 643.010 to [643.190] **643.355**. For the purpose of
13 determining the amount of air contaminant emissions on which the fees
14 authorized under this section are assessed, a facility shall be considered one
15 source under the definition of subsection 2 of section 643.078, except that a
16 facility with multiple operating permits shall pay the emission fees authorized
17 under this section separately for air contaminants emitted under each individual
18 permit.

19 2. A source which produces charcoal from wood shall pay an annual
20 emission fee under this subsection in lieu of the fee established in subsection 1
21 of this section. The fee shall be based upon a maximum fee of twenty-five dollars
22 per ton and applied upon each ton of regulated air contaminant emitted for the
23 first four thousand tons of each contaminant emitted in the amount established
24 by the commission pursuant to subsection 1 of this section, reduced according to
25 the following schedule:

26 (1) For fees payable under this subsection in the years 1993 and 1994, the
27 fee shall be reduced by one hundred percent;

28 (2) For fees payable under this subsection in the years 1995, 1996 and
29 1997, the fee shall be reduced by eighty percent;

30 (3) For fees payable under this subsection in the years 1998, 1999 and
31 2000, the fee shall be reduced by sixty percent.

32 3. The fees imposed in subsection 2 of this section shall not be imposed
33 or collected after the year 2000 unless the general assembly reimposes the fee.

34 4. Each air contaminant source with a permit issued under sections
35 643.010 to [643.190] **643.355** shall pay the fee for the first four thousand tons of
36 each regulated air contaminant emitted each year but no air contaminant source
37 shall pay fees on total emissions of regulated air contaminants in excess of twelve
38 thousand tons in any calendar year. A permitted air contaminant source which
39 emitted less than one ton of all regulated pollutants shall pay a fee equal to the

40 amount per ton set by the commission. An air contaminant source which pays
41 emission fees to a holder of a certificate of authority issued pursuant to section
42 643.140 may deduct such fees from any amount due under this section. The fees
43 imposed in this section shall not be applied to carbon oxide emissions. The fees
44 imposed in subsection 1 and this subsection shall not be applied to sulfur dioxide
45 emissions from any Phase I affected unit subject to the requirements of Title IV,
46 Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, et seq., any
47 sooner than January 1, 2000. The fees imposed on emissions from Phase I
48 affected units shall be consistent with and shall not exceed the provisions of the
49 federal Clean Air Act, as amended, and the regulations promulgated
50 thereunder. Any such fee on emissions from any Phase I affected unit shall be
51 reduced by the amount of the service fee paid by that Phase I affected unit
52 pursuant to subsection 8 of this section in that year. Any fees that may be
53 imposed on Phase I sources shall follow the procedures set forth in subsection 1
54 and this subsection and shall not be applied retroactively.

55 5. Moneys collected under this section shall be transmitted to the director
56 of revenue for deposit in appropriate subaccounts of the natural resources
57 protection fund created in section 640.220. A subaccount shall be maintained for
58 fees paid by air contaminant sources which are required to be permitted under
59 Title V of the federal Clean Air Act, as amended, 42 U.S.C. Section 7661, et seq.,
60 and used, upon appropriation, to fund activities by the department to implement
61 the operating permits program authorized by Title V of the federal Clean Air Act,
62 as amended. Another subaccount shall be maintained for fees paid by air
63 contaminant sources which are not required to be permitted under Title V of the
64 federal Clean Air Act as amended, and used, upon appropriation, to fund other
65 air pollution control program activities. Another subaccount shall be maintained
66 for service fees paid under subsection 8 of this section by Phase I affected units
67 which are subject to the requirements of Title IV, Section 404, of the federal
68 Clean Air Act Amendments of 1990, as amended, 42 U.S.C. 7651, and used, upon
69 appropriation, to fund air pollution control program activities. The provisions of
70 section 33.080 to the contrary notwithstanding, moneys in the fund shall not
71 revert to general revenue at the end of each biennium. Interest earned by
72 moneys in the subaccounts shall be retained in the subaccounts. The per-ton fees
73 established under subsection 1 of this section may be adjusted annually,
74 consistent with the need to fund the reasonable costs of the program, but shall
75 not be less than twenty-five dollars per ton of regulated air contaminant nor more

76 than forty dollars per ton of regulated air contaminant. The first adjustment
77 shall apply to moneys payable on April 1, 1994, and shall be based upon the
78 general price level for the twelve-month period ending on August thirty-first of
79 the previous calendar year.

80 6. The department may initiate a civil action in circuit court against any
81 air contaminant source which has not remitted the appropriate fees within thirty
82 days. In any judgment against the source, the department shall be awarded
83 interest at a rate determined pursuant to section 408.030 and reasonable
84 attorney's fees. In any judgment against the department, the source shall be
85 awarded reasonable attorney's fees.

86 7. The department shall not suspend or revoke a permit for an air
87 contaminant source solely because the source has not submitted the fees pursuant
88 to this section.

89 8. Any Phase I affected unit which is subject to the requirements of Title
90 IV, Section 404, of the federal Clean Air Act, as amended, 42 U.S.C. 7651, shall
91 pay annually beginning April 1, 1993, and terminating December 31, 1999, a
92 service fee for the previous calendar year as provided herein. For the first year,
93 the service fee shall be twenty-five thousand dollars for each Phase I affected
94 generating unit to help fund the administration of sections 643.010 to [643.190]
95 **643.355**. Thereafter, the service fee shall be annually set by the commission by
96 rule, following public hearing, based on an annual allocation prepared by the
97 department showing the details of all costs and expenses upon which such fees
98 are based consistent with the department's reasonable needs to administer and
99 implement sections 643.010 to [643.190] **643.355** and to fulfill its responsibilities
100 with respect to Phase I affected units, but such service fee shall not exceed
101 twenty-five thousand dollars per generating unit. Any such Phase I affected unit
102 which is located on one or more contiguous tracts of land with any Phase II
103 generating unit that pays fees under subsection 1 or subsection 2 of this section
104 shall be exempt from paying service fees under this subsection. A "contiguous
105 tract of land" shall be defined to mean adjacent land, excluding public roads,
106 highways and railroads, which is under the control of or owned by the permit
107 holder and operated as a single enterprise.

108 9. The department of natural resources shall determine the fees due
109 pursuant to this section by the state of Missouri and its departments, agencies
110 and institutions, including two- and four-year institutions of higher
111 education. The director of the department of natural resources shall forward the

112 various totals due to the joint committee on capital improvements and the
113 directors of the individual departments, agencies and institutions. The
114 departments, as part of the budget process, shall annually request by specific line
115 item appropriation funds to pay said fees and capital funding for projects
116 determined to significantly improve air quality. If the general assembly fails to
117 appropriate funds for emissions fees as specifically requested, the departments,
118 agencies and institutions shall pay said fees from other sources of revenue or
119 funds available. The state of Missouri and its departments, agencies and
120 institutions may receive assistance from the small business technical assistance
121 program established pursuant to section 643.173.

643.080. 1. The director shall investigate alleged violations of sections
2 643.010 to [643.190] **643.355** or any rule promulgated hereunder or any term or
3 condition of any permit and may cause to be made such other investigations as
4 he shall deem advisable. The department shall assume the costs of investigation
5 of alleged violations. The identity of the person who filed the complaint shall be
6 made available consistent with chapter 610 and other provisions, as applicable.

7 2. If, in the opinion of the director, the investigation yields reasonable
8 grounds to believe that a violation of [section 577.200] **sections 643.010 to**
9 **643.355** is occurring or has occurred, he shall refer such information to either or
10 both the attorney general or the county prosecutor of the county where the
11 violations are alleged to have occurred.

12 3. If, in the opinion of the director, the investigation discloses that a
13 violation does exist which would not be a criminal violation, he may by
14 conference, conciliation and persuasion endeavor to eliminate the violation.

15 4. In case of the failure by conference, conciliation and persuasion to
16 correct or remedy any violation, the director may order abatement, suspend or
17 revoke a permit, whichever action or actions the director deems appropriate. The
18 director shall cause to have issued and served upon the person a written notice
19 of such order together with a copy of the order, which shall specify the provisions
20 of sections 643.010 to [643.190] **643.355** or the rule or the condition of the permit
21 of which the person is alleged to be in violation, and a statement of the manner
22 in, and the extent to which the person is alleged to be in violation. Service may
23 be made upon any person within or without the state by registered mail, return
24 receipt requested. Any person against whom the director issues an order may
25 appeal the order to the commission within thirty days, and the appeal shall stay
26 the enforcement of such order until final determination by the commission. The

27 commission shall set a hearing on a day not less than thirty days after the date
28 of the request. The commission may sustain, reverse, or modify the director's
29 order, or make such other order as the commission deems appropriate under the
30 circumstances. If any order issued by the director is not appealed within the time
31 herein provided, the order becomes final and may be enforced as provided in
32 section 643.151.

33 5. When the commission schedules a matter for hearing, the petitioner on
34 appeal may appear at the hearing in person or by counsel, and may make oral
35 argument, offer testimony and evidence or cross-examine witnesses.

36 6. After due consideration of the record, or upon default in appearance of
37 the petitioner on the return day specified in the notice given as provided in
38 subsection 4 of this section, the commission shall issue and enter the final order,
39 or make such final determination as it shall deem appropriate under the
40 circumstances, and it shall immediately notify the petitioner or respondent
41 thereof in writing by certified or registered mail.

42 7. Any final order or determination or other final action by the
43 commission shall be approved in writing by at least four members of the
44 commission.

643.130. All final orders or determinations of the commission or the
2 director hereunder shall be subject to judicial review pursuant to the provisions
3 of sections 536.100 to 536.140, **except that, the provisions of section 536.110**
4 **notwithstanding, all actions seeking judicial review of any final**
5 **determination of the commission or the director shall be filed in the**
6 **court of appeals instead of in the circuit court.** No judicial review shall be
7 available hereunder, however, unless and until all administrative remedies are
8 exhausted.

643.191. 1. It is unlawful for any person to knowingly violate any
2 applicable standard, limitation, permit condition or any fee or filing requirement
3 promulgated pursuant to sections 643.010 to [643.190] **643.355** or any rule
4 promulgated thereunder. Any person violating the provisions of this subsection
5 shall, upon conviction thereof, be subject to a fine of not more than ten thousand
6 dollars per day of violation or part thereof.

7 2. It is unlawful for any person to knowingly make a false statement,
8 representation or certification in any form, in any notice or report required by a
9 permit or to knowingly render inaccurate any monitoring device or method
10 required to be maintained by the permitting authority under sections 643.010 to

11 [643.190] **643.355**. Any person violating the provisions of this subsection shall,
12 upon conviction thereof, be subject to a fine of not more than ten thousand dollars
13 for each instance of violation.

643.225. 1. The provisions of sections 643.225 to 643.250 shall apply to
2 all [asbestos abatement] projects **subject to 40 CFR Part 61, Subpart M as**
3 **adopted by 10 CSR 10-6.080**. The commission shall promulgate rules and
4 regulations it deems necessary to implement and administer the provisions of
5 sections 643.225 to 643.250, including requirements, procedures and standards
6 relating to asbestos projects, as well as the authority to require corrective
7 measures to be taken in asbestos abatement, **renovation, or demolition**
8 projects as are deemed necessary to protect public health and the
9 environment. The director shall establish any examinations for certification
10 required by this section and shall hold such examinations at times and places as
11 determined by the director.

12 2. Except as otherwise provided in sections 643.225 to 643.250, no
13 individual shall engage in an asbestos abatement project, inspection, management
14 plan, abatement project design or asbestos air sampling unless the person has
15 been issued a certificate by the director, or by the commission after appeal, for
16 that purpose.

17 3. In any application made to the director to obtain such certification as
18 an inspector, management planner, abatement project designer, supervisor,
19 contractor or worker from the department, the applicant shall include his diploma
20 providing proof of successful completion of either a state accredited or United
21 States Environmental Protection Agency (EPA) accredited training course as
22 described in section 643.228. In addition, an applicant for certification as a
23 management planner shall first be certified as an inspector. All applicants for
24 certification as an inspector, management planner, abatement project designer,
25 supervisor, contractor or worker shall successfully pass a state examination on
26 Missouri state asbestos statutes and rules relating to asbestos. Certification
27 issued hereunder shall expire one year from its effective date. Individuals
28 applying for state certification as an asbestos air sampling professional shall have
29 the following credentials:

30 (1) A bachelor of science degree in industrial hygiene plus one year of
31 experience in the field; or

32 (2) A master of science degree in industrial hygiene; or

33 (3) Certification as an industrial hygienist as designated by the American

34 Board of Industrial Hygiene; or

35 (4) Three years of practical experience in the field of industrial hygiene,
36 including significant asbestos air monitoring experience and the completion of a
37 forty-hour asbestos course which includes air monitoring instruction (National
38 Institute of Occupational Safety and Health 582 course on air sampling or
39 equivalent). In addition to these qualifications, the individual must also pass the
40 state of Missouri asbestos examination. All asbestos air sampling technicians
41 shall be trained and overseen by an asbestos air sampling professional and shall
42 meet the requirements of training found in OSHA's 29 CFR [1926.58]
43 **1926.1101**. Certification under this section as an [AHERA asbestos] abatement
44 project designer does not qualify an individual as an architect, engineer or land
45 surveyor, as defined in chapter 327.

46 4. An application fee of seventy-five dollars shall be assessed for each
47 category, except asbestos abatement worker, to cover administrative costs
48 incurred. An application fee of twenty-five dollars shall be assessed for each
49 asbestos abatement worker to cover administrative costs incurred. A fee of
50 twenty-five dollars shall be assessed per state examination.

51 5. In order to qualify for renewal of a certificate, an individual shall have
52 successfully completed an annual refresher course from [an Environmental
53 Protection Agency or] a state of Missouri accredited training program. For each
54 discipline, the refresher course shall review and discuss current federal and state
55 statute and rule developments, state-of-the-art procedures and key aspects of the
56 initial training course, as determined by the state of Missouri. For all categories
57 except inspectors, individuals shall complete a one-day annual refresher training
58 course for recertification. Refresher courses for inspectors shall be at least a
59 half-day in length. Management planners shall attend the inspector refresher
60 course, plus an additional half-day on management planning. All refresher
61 courses shall require an individual to successfully pass an examination upon
62 completion of the course. In the case of significant changes in Missouri state
63 asbestos statutes or rules, an individual shall also be required to take and
64 successfully pass an updated Missouri state asbestos examination. An individual
65 who has failed the Missouri state asbestos examination may retake it on the next
66 scheduled examination date. If [his certification has lapsed for more than
67 twenty-four months, he] **an individual has not successfully completed the**
68 **annual refresher course within twelve months of the expiration of his**
69 **or her certification, the individual** shall be required to retake the course in

70 his **or her** specialty area **as** described in this section. Failure to comply with the
71 requirements for renewal of certification in this section will result in
72 decertification. In no event shall certification or recertification constitute
73 permission to violate sections 643.225 to 643.250 or any standard or rule
74 promulgated under sections 643.225 to 643.250.

75 6. A fee of five dollars shall be paid to the state for renewal of **worker**
76 **class** certificates to cover administrative costs.

77 [7. The provisions of subsections 2 through 6 of this section, section
78 643.228, subdivision (4) of subsection 1 of section 643.230, sections 643.232 and
79 643.235, subdivisions (1) to (3) of subsection 1 of section 643.237, and subsection
80 2 of section 643.237 shall not apply to a person that is subject to requirements
81 and applicable standards of the United States Environmental Protection Agency
82 (EPA) and the United States Occupational Safety and Health Administration's
83 (OSHA) 29 Code of Federal Regulations 1926.58 and which engages in asbestos
84 abatement projects as part of normal operations in the facility solely at its own
85 place or places of business. A person shall receive an exemption upon submitting
86 to the director, on a form provided by the department, documentation of the
87 training provided to their employees to meet the requirements of applicable
88 OSHA and EPA rules and regulations and the type of asbestos abatement projects
89 which constitute normal operations performed by the applicant. If the application
90 does not meet the requirements of this subsection and the rules and regulations
91 promulgated by the department, the applicant shall be notified, within one
92 hundred eighty days of the receipt of the application, that his exemption has been
93 revoked. An applicant may appeal the revocation of an exemption to the
94 commission within thirty days of the notice of revocation. This exemption shall
95 not apply to asbestos abatement contractors, to those persons who the commission
96 by rule determines provide a service to the public in its place or places of
97 business as the economic foundation of the facility, or to those persons subject to
98 the requirements of the federal Asbestos Hazard Emergency Response Act of 1986
99 (P.L. 99-519). A representative of the department shall be permitted to attend,
100 monitor and evaluate any training program provided by the exempted
101 person. Such evaluations may be conducted without prior notice. Refusal to
102 allow such an evaluation is sufficient grounds for loss of exemption status.

103 8. A fee of two hundred fifty dollars shall be submitted with the
104 application for exemption. This is a one-time fee. Exempted persons shall submit
105 to the director changes in curricula or other significant revisions to the training

106 program as they occur.]

643.232. 1. All asbestos abatement contractors prior to engaging in
2 asbestos abatement projects shall:

3 (1) Register with the department and reregister annually as provided by
4 rule;

5 (2) Submit an application for registration on a form developed by the
6 department;

7 (3) Use only those individuals that have been certified or trained in
8 accordance with sections 643.225 to 643.250.

9 2. During asbestos abatement projects, all contractors shall:

10 (1) Comply with applicable United States Environmental Protection
11 Agency regulations and guidelines, the standards for worker protection
12 promulgated by the United States Occupational Safety and Health Administration
13 in 29 CFR 1910.1001, 1910.1200 and [1926.58] **1926.1101**, the provisions of
14 sections 643.225 to 643.250 and the rules and regulations promulgated
15 thereunder. It is not intended that the director shall enforce OSHA requirements
16 but shall have the authority to deny, revoke, or suspend registration on the basis
17 of finding of violation by OSHA;

18 (2) Ensure that a competent person be on the asbestos abatement project
19 site directing all aspects of the project during the hours that the project is being
20 conducted.

21 3. A registration fee of one thousand dollars shall be paid by the person
22 to the state prior to registration.

643.237. 1. Any person undertaking an asbestos abatement project of a
2 magnitude greater than or equal to one hundred sixty square feet [or], two
3 hundred sixty linear feet, **or thirty-five cubic feet or regulated demolition**
4 **project** shall meet the following requirements:

5 (1) The person shall submit an application for asbestos abatement **or**
6 **demolition** to the department for review at least [twenty] **ten working** days
7 in advance. The application shall be in the form required by the department **and**
8 **shall include a copy of an asbestos inspection survey which includes**
9 **but is not limited to sample analysis results, quantities of asbestos**
10 **materials identified, and documentation the inspection was conducted**
11 **by a certified asbestos inspector.** Such application shall include the name
12 and address of the applicant, a description of the proposed project and any other
13 information as may be required by the commission and provide proof to the

14 department that all employees engaged in an asbestos abatement project are in
15 compliance with sections 643.225 and 643.228;

16 (2) Persons undertaking an asbestos abatement project shall notify the
17 department within sixty days of the completion of the project in the form required
18 by the department;

19 (3) Persons undertaking an emergency asbestos abatement project of this
20 magnitude shall submit a notification to the department within twenty-four hours
21 of the onset of the emergency. An application for permit to abate shall be
22 submitted to the department within seven days of the onset of the emergency;

23 (4) A fee of one hundred dollars shall be paid for review of each
24 **demolition or** asbestos abatement project notification of this magnitude;

25 (5) Any person undertaking an asbestos abatement **or demolition** project
26 in the jurisdiction of an authorized local air pollution control agency shall be
27 exempt from an application fee if the authorized local agency also imposes an
28 application fee.

29 2. [Any person undertaking an asbestos abatement project of a magnitude
30 less than one hundred sixty square feet or two hundred sixty linear feet, but
31 greater than ten square feet or sixteen linear feet shall meet the following
32 requirements:

33 (1) The person shall submit notification to the department for review at
34 least twenty days in advance. The notification shall be in the form required by
35 the department. Such notification shall include the name and address of the
36 applicant, a description of the proposed project and any other information as may
37 be required by the department and provide proof to the department that all
38 employees engaged in an asbestos abatement project are in compliance with
39 sections 643.225 and 643.228. In addition, the person shall post for inspection,
40 at the site, current certificates of all individuals engaged in the asbestos
41 abatement project as well as proof of the person's current registration;

42 (2) Persons undertaking an asbestos abatement project shall notify the
43 department within sixty days of the completion of the project in the form required
44 by the department;

45 (3) Persons undertaking an emergency asbestos abatement project of this
46 magnitude shall submit notification to the department within twenty-four hours
47 of the onset of the emergency.

48 3.] Any person who submits an asbestos abatement **or demolition**
49 project notification to the department shall submit actual project dates and times

50 for his project. If the dates and times are revised on this project as submitted to
51 the department, the person is responsible to notify the department at least
52 twenty-four hours prior to the original starting date of the project by telephone
53 and then followup with a written amendment stating the change in date and
54 time. If the person does not comply with this procedure, he shall be held in
55 violation of the notification requirements found in this section. This requirement
56 does not change the reporting requirements for notification, post notification and
57 emergency projects specified in this section.

643.240. 1. Before commencement of an asbestos abatement project,
2 persons shall make all reasonable efforts to minimize the spread of friable
3 asbestos-containing materials to uncontaminated areas.

4 2. Any asbestos-containing material that will be rendered friable during
5 the process of removal, encapsulation, enclosure or demolition is subject to all
6 applicable federal and state regulations.

7 3. Analysis of asbestos air samples shall be conducted according to the
8 United States Occupational Safety and Health Administration's (OSHA)
9 standards in 29 CFR [1926.58] **1926.1101** or the United States
10 **Environmental Protection Agency** standards in 40 CFR Part 763,
11 **Subpart E**.

643.242. 1. Asbestos abatement projects of a magnitude greater than or
2 equal to [ten] **one hundred sixty** square feet or [sixteen] **two hundred sixty**
3 linear feet **or thirty-five cubic feet or all regulated demolition projects**
4 are subject to inspection.

5 2. The commission shall be authorized to assess a fee of not more than one
6 hundred dollars for each on-site inspection of **an** asbestos abatement [projects]
7 **or demolition project**. Such fees would not be assessed for more than three
8 on-site inspections during the period an actual abatement project is in
9 progress. Failure of the asbestos abatement contractor to notify the department
10 of project postponement may result in the assessment of an inspection fee in the
11 event of an on-site visit by the department.

12 3. Any person undertaking an asbestos abatement project **or regulated**
13 **demolition project** in the jurisdiction of an authorized local air pollution
14 control agency shall be exempt from an inspection fee if the authorized local
15 agency also imposes an inspection fee.

643.245. 1. All moneys received pursuant to sections 643.225 to [643.250]
2 **643.245** and any other moneys so designated shall be placed in the state treasury

3 and credited to the "Natural Resources Protection Fund -- Air Pollution Asbestos
4 Fee Subaccount", which is hereby created. Such moneys received pursuant to
5 sections 643.225 to [643.250] **643.245** shall, subject to appropriation, be used
6 solely for the purpose of administering this chapter. Any unexpended balance in
7 such fund at the end of any appropriation period shall not be transferred to the
8 general revenue fund of the state treasury and shall be exempt from the
9 provisions of section 33.080.

10 2. The state treasurer, with the approval of the board of fund
11 commissioners, is authorized to deposit all of the moneys in any of the qualified
12 state depositories. All such deposits shall be secured in such manner and shall
13 be made upon such terms and conditions as are now and may hereafter be
14 approved by law relative to state deposits. Any interest received on such deposits
15 shall be credited to the natural resources protection fund -- air pollution asbestos
16 fee subaccount.

643.250. 1. Any authorized representative of the department may enter
2 at all reasonable times, in or upon public or private property for purposes
3 required under sections 643.225 to 643.250. **In addition to any other remedy**
4 **provided by law**, refusal to allow such entry shall be grounds for revocation of
5 registration or injunctive relief.

6 2. Any person who knowingly violates sections 643.225 to 643.250, or any
7 rule promulgated thereunder, shall, upon conviction, be punished by a fine of not
8 less than twenty-five hundred dollars nor more than twenty-five thousand dollars
9 per day of violation, or by imprisonment for not more than one year, or
10 both. Second and successive convictions of any person shall be punished by a fine
11 of not more than fifty thousand dollars per day of violation, or by imprisonment
12 for not more than two years, or both.

13 3. Any person who violates any provision of sections 643.225 to 643.250
14 may, in addition to any other penalty provided by law, incur a civil penalty in an
15 amount not to exceed ten thousand dollars for each day of violation. The civil
16 penalty shall be in an amount to constitute an actual and substantial economic
17 deterrent to the violation for which the civil penalty is assessed. [Any civil
18 penalty paid shall be placed in the natural resources protection fund -- air
19 pollution asbestos fee subaccount.]

20 4. Notwithstanding the existence or pursuit of any other remedy provided
21 by sections 643.225 to 643.250, the commission may maintain, in the manner
22 provided by chapter 536, an action in the name of the state of Missouri for

23 injunction or other process against any person to restrain or prevent any violation
24 of the provisions of sections 643.225 to 643.250.

644.036. 1. No standard, rule or regulation or any amendment or repeal
2 thereof shall be adopted except after a public hearing to be held after thirty days'
3 prior notice by advertisement of the date, time and place of the hearing and
4 opportunity given to the public to be heard. Notice of the hearings and copies of
5 the proposed standard, rule or regulation or any amendment or repeal thereof
6 shall also be given by regular mail, at least thirty days prior to the scheduled
7 date of the hearing, to any person who has registered with the director for the
8 purpose of receiving notice of such public hearings in accordance with the
9 procedures prescribed by the commission at least forty-five days prior to the
10 scheduled date of the hearing. However, this provision shall not preclude
11 necessary changes during this thirty-day period.

12 2. At the hearing, opportunity to be heard by the commission with respect
13 to the subject thereof shall be afforded any interested person upon written
14 request to the commission, addressed to the director, not later than seven days
15 prior to the hearing, and may be afforded to other persons if convenient. In
16 addition, any interested persons, whether or not heard, may submit, within seven
17 days subsequent to the hearings, a written statement of their views. The
18 commission may solicit the views, in writing, of persons who may be affected by,
19 or interested in, proposed rules and regulations, or standards. Any person heard
20 or represented at the hearing or making written request for notice shall be given
21 written notice of the action of the commission with respect to the subject thereof.

22 3. Any standard, rule or regulation or amendment or repeal thereof shall
23 not be deemed adopted or in force and effect until it has been approved in writing
24 by at least four members of the commission. A standard, rule or regulation or an
25 amendment or repeal thereof shall not become effective until a certified copy
26 thereof has been filed with the secretary of state as provided in chapter 536.

27 4. Unless prohibited by any federal water pollution control act, any
28 standard, rule or regulation or any amendment or repeal thereof which is adopted
29 by the commission may differ in its terms and provisions as between particular
30 types and conditions of water quality standards or of water contaminants, as
31 between particular classes of water contaminant sources, and as between
32 particular waters of the state.

33 5. Any listing required by Section 303(d) of the federal Clean Water Act,
34 as amended, 33 U.S.C. 1251, et seq., to be sent to the U.S. Environmental

35 Protection Agency for its approval that will result in any waters of the state being
36 classified as impaired shall be adopted by the commission after a public hearing,
37 or series of hearings, held in accordance with the following procedures. The
38 department of natural resources shall publish in at least six regional newspapers,
39 in advance, a notice by advertisement the availability of a proposed list of
40 impaired waters of the state and such notice shall include at least ninety days'
41 advance notice of the date, time, and place of the public hearing and opportunity
42 given to the public to be heard. Notice of the hearings and copies of the proposed
43 list of impaired waters also shall be posted on the department of natural
44 resources' website and given by regular mail, at least ninety days prior to the
45 scheduled date of the hearing, to any person who has registered with the director
46 for the purpose of receiving notice of such public hearings. The proposed list of
47 impaired waters shall identify the water segment, the uses to be made of such
48 waters, the uses impaired, identify the pollutants causing or expected to cause
49 violations of the applicable water quality standards, and provide a summary of
50 the data relied upon to make the preliminary determination. Contemporaneous
51 with the publication of the notice of public hearing, the department shall make
52 available on its website all data and information it relied upon to prepare the
53 proposed list of impaired waters, including a narrative explanation of how the
54 department determined the water segment was impaired. At any time after the
55 public notice and until seven days after the public hearing, the department shall
56 accept written comments on the proposed list of impaired waters. After the
57 public hearing and after all written comments have been submitted, the
58 department shall prepare a written response to all comments and a revised list
59 of impaired waters. The commission shall adopt a list of impaired waters in a
60 public meeting during which the public shall be afforded an opportunity to
61 respond to the department's written response to comments and revised list of
62 impaired waters. Notice of the meeting shall include the date, time, and place of
63 the public meeting and shall provide notice that the commission will give
64 interested persons the opportunity to respond to the department's revised list of
65 impaired waters and written responses to comments. At its discretion, the
66 commission may extend public comment periods or hold additional public
67 hearings on the proposed and revised lists of impaired waters. The commission
68 shall not vote to add to the list of impaired waters any waters not recommended
69 by the department in the proposed or revised lists of impaired waters without
70 granting the public at least thirty additional days to comment on the proposed

71 addition. The list of impaired waters adopted by the commission shall not be
72 deemed to be a rule as defined by section 536.010. The listing of any water
73 segment on the list of impaired waters adopted by the commission shall be subject
74 to judicial review by any adversely affected party under section 536.150. [The
75 provisions in this subsection shall expire on August 28, 2010.]

644.051. 1. It is unlawful for any person:

2 (1) To cause pollution of any waters of the state or to place or cause or
3 permit to be placed any water contaminant in a location where it is reasonably
4 certain to cause pollution of any waters of the state;

5 (2) To discharge any water contaminants into any waters of the state
6 which reduce the quality of such waters below the water quality standards
7 established by the commission;

8 (3) To violate any pretreatment and toxic material control regulations, or
9 to discharge any water contaminants into any waters of the state which exceed
10 effluent regulations or permit provisions as established by the commission or
11 required by any federal water pollution control act;

12 (4) To discharge any radiological, chemical, or biological warfare agent or
13 high-level radioactive waste into the waters of the state.

14 2. It shall be unlawful for any person to build, erect, alter, replace,
15 operate, use or maintain any water contaminant or point source in this state that
16 is subject to standards, rules or regulations promulgated pursuant to the
17 provisions of sections 644.006 to 644.141 unless such person holds a permit from
18 the commission, subject to such exceptions as the commission may prescribe by
19 rule or regulation. However, no permit shall be required of any person for any
20 emission into publicly owned treatment facilities or into publicly owned sewer
21 systems tributary to publicly owned treatment works.

22 3. Every proposed water contaminant or point source which, when
23 constructed or installed or established, will be subject to any federal water
24 pollution control act or sections 644.006 to 644.141 or regulations promulgated
25 pursuant to the provisions of such act shall make application to the director for
26 a permit at least thirty days prior to the initiation of construction or installation
27 or establishment. Every water contaminant or point source in existence when
28 regulations or sections 644.006 to 644.141 become effective shall make application
29 to the director for a permit within sixty days after the regulations or sections
30 644.006 to 644.141 become effective, whichever shall be earlier. The director
31 shall promptly investigate each application, which investigation shall include

32 such hearings and notice, and consideration of such comments and
33 recommendations as required by sections 644.006 to 644.141 and any federal
34 water pollution control act. If the director determines that the source meets or
35 will meet the requirements of sections 644.006 to 644.141 and the regulations
36 promulgated pursuant thereto, the director shall issue a permit with such
37 conditions as he or she deems necessary to ensure that the source will meet the
38 requirements of sections 644.006 to 644.141 and any federal water pollution
39 control act as it applies to sources in this state. If the director determines that
40 the source does not meet or will not meet the requirements of either act and the
41 regulations pursuant thereto, the director shall deny the permit pursuant to the
42 applicable act and issue any notices required by sections 644.006 to 644.141 and
43 any federal water pollution control act.

44 4. Before issuing a permit to build or enlarge a water contaminant or
45 point source or reissuing any permit, the director shall issue such notices, conduct
46 such hearings, and consider such factors, comments and recommendations as
47 required by sections 644.006 to 644.141 or any federal water pollution control
48 act. The director shall determine if any state or any provisions of any federal
49 water pollution control act the state is required to enforce, any state or federal
50 effluent limitations or regulations, water quality-related effluent limitations,
51 national standards of performance, toxic and pretreatment standards, or water
52 quality standards which apply to the source, or any such standards in the vicinity
53 of the source, are being exceeded, and shall determine the impact on such water
54 quality standards from the source. The director, in order to effectuate the
55 purposes of sections 644.006 to 644.141, shall deny a permit if the source will
56 violate any such acts, regulations, limitations or standards or will appreciably
57 affect the water quality standards or the water quality standards are being
58 substantially exceeded, unless the permit is issued with such conditions as to
59 make the source comply with such requirements within an acceptable time
60 schedule. Prior to the development or renewal of a general permit or permit by
61 rule, for aquaculture, the director shall convene a meeting or meetings of permit
62 holders and applicants to evaluate the impacts of permits and to discuss any
63 terms and conditions that may be necessary to protect waters of the
64 state. Following the discussions, the director shall finalize a draft permit that
65 considers the comments of the meeting participants and post the draft permit on
66 notice for public comment. The director shall concurrently post with the draft
67 permit an explanation of the draft permit and shall identify types of facilities

68 which are subject to the permit conditions. Affected public or applicants for new
69 general permits, renewed general permits or permits by rule may request a
70 hearing with respect to the new requirements in accordance with this section. If
71 a request for a hearing is received, the commission shall hold a hearing to receive
72 comments on issues of significant technical merit and concerns related to the
73 responsibilities of the Missouri clean water law. The commission shall conduct
74 such hearings in accordance with this section. After consideration of such
75 comments, a final action on the permit shall be rendered. The time between the
76 date of the hearing request and the hearing itself shall not be counted as time
77 elapsed pursuant to subdivision (1) of subsection 13 of this section.

78 5. The director shall grant or deny the permit within sixty days after all
79 requirements of the Federal Water Pollution Control Act concerning issuance of
80 permits have been satisfied unless the application does not require any permit
81 pursuant to any federal water pollution control act. The director or the
82 commission may require the applicant to provide and maintain such facilities or
83 to conduct such tests and monitor effluents as necessary to determine the nature,
84 extent, quantity or degree of water contaminant discharged or released from the
85 source, establish and maintain records and make reports regarding such
86 determination.

87 6. The director shall promptly notify the applicant in writing of his or her
88 action and if the permit is denied state the reasons therefor. The applicant may
89 appeal to the commission from the denial of a permit or from any condition in any
90 permit by filing notice of appeal with the commission within thirty days of the
91 notice of denial or issuance of the permit. **After a final action is taken on a**
92 **new or reissued general permit template, a potential applicant for the**
93 **general permit who can demonstrate that he or she is or may be**
94 **adversely affected by any permit term or condition may appeal the**
95 **terms and conditions of the general permit template within thirty days**
96 **of the department's issuance of the general permit template.** The
97 commission shall set the matter for hearing not less than thirty days after the
98 notice of appeal is filed. In no event shall a permit constitute permission to
99 violate the law or any standard, rule or regulation promulgated pursuant thereto.

100 7. In any hearing held pursuant to this section **that involves a permit,**
101 **license, or registration,** the burden of proof is on the [applicant for a permit]
102 **party specified in section 640.012.** Any decision of the commission made
103 pursuant to a hearing held pursuant to this section is subject to judicial review

104 as provided in section 644.071.

105 8. In any event, no permit issued pursuant to this section shall be issued
106 if properly objected to by the federal government or any agency authorized to
107 object pursuant to any federal water pollution control act unless the application
108 does not require any permit pursuant to any federal water pollution control act.

109 9. **Permits may be modified, reissued, or terminated at the**
110 **request of the permittee. All requests shall be in writing and shall**
111 **contain facts or reasons supporting the request.**

112 10. Unless a site-specific permit is requested by the applicant,
113 aquaculture facilities shall be governed by a general permit issued pursuant to
114 this section with a fee not to exceed two hundred fifty dollars pursuant to
115 subdivision (5) of subsection 6 of section 644.052. However, any aquaculture
116 facility which materially violates the conditions and requirements of such permit
117 may be required to obtain a site-specific permit.

118 [10.] 11. No manufacturing or processing plant or operating location shall
119 be required to pay more than one operating fee. Operating permits shall be
120 issued for a period not to exceed five years after date of issuance, except that
121 general permits shall be issued for a five-year period, and also except that neither
122 a construction nor an annual permit shall be required for a single residence's
123 waste treatment facilities. Applications for renewal of an operating permit shall
124 be filed at least one hundred eighty days prior to the expiration of the existing
125 permit.

126 [11.] 12. Every permit issued to municipal or any publicly owned
127 treatment works or facility shall require the permittee to provide the clean water
128 commission with adequate notice of any substantial new introductions of water
129 contaminants or pollutants into such works or facility from any source for which
130 such notice is required by sections 644.006 to 644.141 or any federal water
131 pollution control act. Such permit shall also require the permittee to notify the
132 clean water commission of any substantial change in volume or character of water
133 contaminants or pollutants being introduced into its treatment works or facility
134 by a source which was introducing water contaminants or pollutants into its
135 works at the time of issuance of the permit. Notice must describe the quality and
136 quantity of effluent being introduced or to be introduced into such works or
137 facility by a source which was introducing water contaminants or pollutants into
138 its works at the time of issuance of the permit. Notice must describe the quality
139 and quantity of effluent being introduced or to be introduced into such works or

140 facility and the anticipated impact of such introduction on the quality or quantity
141 of effluent to be released from such works or facility into waters of the state.

142 [12.] 13. The director or the commission may require the filing or posting
143 of a bond as a condition for the issuance of permits for construction of temporary
144 or future water treatment facilities or facilities that utilize innovative technology
145 for wastewater treatment in an amount determined by the commission to be
146 sufficient to ensure compliance with all provisions of sections 644.006 to 644.141,
147 and any rules or regulations of the commission and any condition as to such
148 construction in the permit. For the purposes of this section, "innovative
149 technology for wastewater treatment" shall mean a completely new and generally
150 unproven technology in the type or method of its application that bench testing
151 or theory suggest has environmental, efficiency, and cost benefits beyond the
152 standard technologies. No bond shall be required for designs approved by any
153 federal agency or environmental regulatory agency of another state. The bond
154 shall be signed by the applicant as principal, and by a corporate surety licensed
155 to do business in the state of Missouri and approved by the commission. The
156 bond shall remain in effect until the terms and conditions of the permit are met
157 and the provisions of sections 644.006 to 644.141 and rules and regulations
158 promulgated pursuant thereto are complied with.

159 [13.] 14. (1) The department shall issue or deny applications for
160 construction and site-specific operating permits received after January 1, 2001,
161 within one hundred eighty days of the department's receipt of an application. For
162 general construction and operating permit applications received after January 1,
163 2001, that do not require a public participation process, the department shall
164 issue or deny the requested permits within sixty days of the department's receipt
165 of an application.

166 (2) If the department fails to issue or deny with good cause a construction
167 or operating permit application within the time frames established in subdivision
168 (1) of this subsection, the department shall refund the full amount of the initial
169 application fee within forty-five days of failure to meet the established time
170 frame. If the department fails to refund the application fee within forty-five days,
171 the refund amount shall accrue interest at a rate established pursuant to section
172 32.065.

173 (3) Permit fee disputes may be appealed to the commission within thirty
174 days of the date established in subdivision (2) of this subsection. If the applicant
175 prevails in a permit fee dispute appealed to the commission, the commission may

176 order the director to refund the applicant's permit fee plus interest and
177 reasonable attorney's fees as provided in sections 536.085 and 536.087. A refund
178 of the initial application or annual fee does not waive the applicant's
179 responsibility to pay any annual fees due each year following issuance of a
180 permit.

181 (4) No later than December 31, 2001, the commission shall promulgate
182 regulations defining shorter review time periods than the time frames established
183 in subdivision (1) of this subsection, when appropriate, for different classes of
184 construction and operating permits. In no case shall commission regulations
185 adopt permit review times that exceed the time frames established in subdivision
186 (1) of this subsection. The department's failure to comply with the commission's
187 permit review time periods shall result in a refund of said permit fees as set forth
188 in subdivision (2) of this subsection. On a semiannual basis, the department
189 shall submit to the commission a report which describes the different classes of
190 permits and reports on the number of days it took the department to issue each
191 permit from the date of receipt of the application and show averages for each
192 different class of permits.

193 (5) During the department's technical review of the application, the
194 department may request the applicant submit supplemental or additional
195 information necessary for adequate permit review. The department's technical
196 review letter shall contain a sufficient description of the type of additional
197 information needed to comply with the application requirements.

198 (6) Nothing in this subsection shall be interpreted to mean that inaction
199 on a permit application shall be grounds to violate any provisions of sections
200 644.006 to 644.141 or any rules promulgated pursuant to sections 644.006 to
201 644.141.

202 [14.] 15. The department shall respond to all requests for individual
203 certification under Section 401 of the Federal Clean Water Act within the lesser
204 of sixty days or the allowed response period established pursuant to applicable
205 federal regulations without request for an extension period unless such extension
206 is determined by the commission to be necessary to evaluate significant impacts
207 on water quality standards and the commission establishes a timetable for
208 completion of such evaluation in a period of no more than one hundred eighty
209 days.

210 [15.] 16. All permit fees generated pursuant to this chapter shall not be
211 used for the development or expansion of total maximum daily loads studies on

212 either the Missouri or Mississippi rivers.

213 **17. The department shall implement permit shield provisions**
214 **equivalent to the permit shield provisions implemented by the U.S.**
215 **Environmental Protection Agency pursuant to the Clean Water Act**
216 **Section 402(k), 33 U.S.C. 1342(k), and its implementing regulations, for**
217 **permits issued pursuant to chapter 644.**

644.054. 1. Fees imposed in sections 644.052 and 644.053 shall, except
2 for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section
3 644.052, become effective October 1, 1990, and shall expire [December 31, 2010]
4 **September 1, 2013.** Fees imposed pursuant to subsection 4 and subsections 6
5 to 13 of section 644.052 shall become effective August 28, 2000, and shall expire
6 on [December 31, 2010] **September 1, 2013.** The clean water commission shall
7 promulgate rules and regulations on the procedures for billing and collection. All
8 sums received through the payment of fees shall be placed in the state treasury
9 and credited to an appropriate subaccount of the natural resources protection
10 fund created in section 640.220. Moneys in the subaccount shall be expended,
11 upon appropriation, solely for the administration of sections 644.006 to
12 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a
13 public sewer district, a public water district or other publicly owned treatment
14 works are state fees. Five percent of the fee revenue collected shall be retained
15 by the city, public sewer district, public water district or other publicly owned
16 treatment works as reimbursement of billing and collection expenses.

17 2. The commission may grant a variance pursuant to section 644.061 to
18 reduce fees collected pursuant to section 644.052 for facilities that adopt systems
19 or technologies that reduce the discharge of water contaminants substantially
20 below the levels required by commission rules.

21 3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due on
22 the date of application and on each anniversary date of permit issuance thereafter
23 until the permit is terminated.

24 **4. The director of the department of natural resources shall**
25 **conduct a comprehensive review of the fee structure in sections 644.052**
26 **and 644.053. The review shall include stakeholder meetings in order to**
27 **solicit stakeholder input. The director shall submit a report to the**
28 **general assembly by December 31, 2012, which shall include its findings**
29 **and a recommended plan for the fee structure. The plan shall also**
30 **include time lines for permit issuance, provisions for expedited**

31 **permits, and recommendations for any other improved services**
32 **provided by the fee funding.**

644.071. 1. All final orders or determinations of the commission or the
2 director made pursuant to the provisions of sections 644.006 to 644.141 are
3 subject to judicial review pursuant to the provisions of chapter 536, **except that,**
4 **the provisions of section 536.110 notwithstanding, all actions seeking**
5 **judicial review of any final order or determination of the commission**
6 **or the director shall be filed in the court of appeals instead of in the**
7 **circuit court.** No judicial review shall be available, however, unless and until
8 all administrative remedies are exhausted.

9 2. In any suit filed pursuant to section 536.050 concerning the validity of
10 the commission's standards, rules and regulations, the court shall review the
11 record made before the commission to determine the validity and reasonableness
12 of such standards, rules, limitations, and regulations and may hear such
13 additional evidence as it deems necessary.

644.145. 1. **When issuing permits under this chapter for**
2 **discharges from combined or separate sanitary sewer systems or**
3 **publicly-owned treatment works, or when enforcing provisions of this**
4 **chapter or the Federal Water Pollution Control Act, 33 U.S.C. 1251 et**
5 **seq. pertaining to any portion of a combined or separate sanitary sewer**
6 **system or publicly-owned treatment works, the department of natural**
7 **resources shall make a finding of affordability upon which to base such**
8 **permits and decisions, to the extent allowable under this chapter and**
9 **the Federal Water Pollution Control Act.**

10 2. **When used in this chapter and in standards, rules and**
11 **regulations promulgated pursuant to this chapter, the following words**
12 **and phrases mean:**

13 (1) **"Affordability", with respect to payment of a utility bill, a**
14 **measure of whether an individual customer or household can pay the**
15 **bill without undue hardship or unreasonable sacrifice in the essential**
16 **lifestyle or spending patterns of the individual or household, taking**
17 **into consideration the criteria described in subsection 3 of this section;**

18 (2) **"Financial capability", the financial capability of a community**
19 **to make investments necessary to make water quality-related**
20 **improvements.**

21 3. **The department of natural resources shall adopt procedures**
22 **by which it will determine whether a permit or decision is**

23 affordable. Such determination shall be based upon reasonably
24 available empirical data and shall include an assessment of the
25 affordability of the permit or decision to any private or public person
26 or entity affected by such permit. The determination shall be based
27 upon the following criteria:

28 (1) A community's financial capability and ability to raise or
29 secure necessary funding;

30 (2) Affordability of pollution control options for the individuals
31 or households of the community;

32 (3) An evaluation of the overall costs and environmental benefits
33 of the control technologies;

34 (4) An inclusion of ways to reduce economic impacts on
35 distressed populations in the community, including but not limited to,
36 low and fixed income populations. This requirement includes but is not
37 limited to:

38 (a) Allowing adequate time in implementation schedules to
39 mitigate potential adverse impacts on distressed populations resulting
40 from the costs of the improvements and taking into consideration local
41 community economic considerations; and

42 (b) Allowing for reasonable accommodations for regulated
43 entities when inflexible standards and fines would impose a
44 disproportionate financial hardship in light of the environmental
45 benefits to be gained;

46 (5) An assessment of other community investments relating to
47 environmental improvements;

48 (6) An assessment of factors set forth in the United States
49 Environmental Protection Agency's guidance, including but not limited
50 to the "Combined Sewer Overflow—Guidance for Financial Capability
51 Assessment and Schedule Development" that may ease the cost burdens
52 of implementing wet weather control plans, including but not limited
53 to small system considerations, the attainability of water quality
54 standards, and the development of wet weather standards; and

55 (7) An assessment of any other relevant local community
56 economic condition.

57 4. Prescriptive formulas and measures used in determining
58 financial capability, affordability, and thresholds for expenditure, such
59 as median household income, should not be considered to be the only

60 **indicator of a community's ability to implement control technology and**
61 **shall be viewed in the context of other economic conditions rather than**
62 **as a threshold to be achieved.**

63 **5. If the department of natural resources fails to make a finding**
64 **of affordability as indicated in this section, the proposed permit or**
65 **decision shall be null, void and unenforceable.**

66 **6. The department of natural resources' findings under this**
67 **section may be appealed to the commission pursuant to subsection 6 of**
68 **section 644.051.**

701.033. 1. The department shall have the power and duty to:

2 (1) Promulgate such rules and regulations as are necessary to carry out
3 the provisions of sections 701.025 to 701.059;

4 (2) Cause investigations to be made when a violation of any provision of
5 sections 701.025 to 701.059 or the on-site sewage disposal rules promulgated
6 under sections 701.025 to 701.059 is reported to the department;

7 (3) Enter at reasonable times and determining probable cause that a
8 violation exists, upon private or public property for the purpose of inspecting and
9 investigating conditions relating to the administration and enforcement of
10 sections 701.025 to 701.059 and the on-site sewage disposal rules promulgated
11 under sections 701.025 to 701.059;

12 (4) Authorize the trial or experimental use of innovative systems for
13 on-site sewage disposal, after consultation with the staff of the Missouri clean
14 water commission, upon such conditions as the department may set;

15 **(5) Provide technical assistance, guidance, and oversight to any**
16 **other administrative authority in the state on the regulation and**
17 **enforcement of standards for individual on-site sewage disposal**
18 **systems, at the request of such other administrative authority, or when**
19 **the department determines that such assistance, guidance, or oversight**
20 **is necessary to prevent a violation of sections 701.025 to 701.059.**

21 2. No rule or portion of a rule promulgated under the authority of sections
22 701.025 to 701.059 shall become effective unless it has been promulgated
23 pursuant to the provisions of section 536.024.

701.058. The department of natural resources and the department
2 **of health and senior services shall jointly hold stakeholder meetings for**
3 **the purpose of gathering data and information regarding permits and**
4 **inspections for on-site sewage disposal systems. The departments shall**

5 evaluate the data and information obtained and present their findings
 6 and recommendations in a report to be submitted to the general
 7 assembly by December 31, 2011.

Section 1. Notwithstanding any other law or rule to the contrary,
 2 only the department of natural resources shall set stage 1 and 2 motor
 3 fuel vapor recovery fees, including permit and construction fees, which
 4 shall be uniform across the state and which shall not be modified,
 5 expanded, or increased by political subdivisions or local enforcement
 6 agencies.

Section 2. Notwithstanding the provisions of section 1.140, RSMo,
 2 to the contrary, the provisions of sections 37.970, 192.1250, 247.060,
 3 253.082, 253.090, 256.055, 256.400, 256.433, 260.262, 260.269, 260.380,
 4 260.475, 260.965, 319.130, 319.132, 414.072, 621.250, 640.018, 640.045,
 5 640.116, 640.128, 640.850, 643.020, 643.040, 643.050, 643.060, 643.079,
 6 643.080, 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242,
 7 643.245, 643.250, 644.036, 644.051, 644.054, 644.071, 644.145, 701.033,
 8 701.058, and 1 of this act shall be nonseverable, and if any provision is
 9 for any reason held to be invalid, such decision shall invalidate all of
 10 the remaining provisions of sections 37.970, 192.1250, 247.060, 253.082,
 11 253.090, 256.055, 256.400, 256.433, 260.262, 260.269, 260.380, 260.475,
 12 260.965, 319.130, 319.132, 414.072, 621.250, 640.018, 640.045, 640.116,
 13 640.128, 640.850, 643.020, 643.040, 643.050, 643.060, 643.079, 643.080,
 14 643.130, 643.191, 643.225, 643.232, 643.237, 643.240, 643.242, 643.245,
 15 643.250, 644.036, 644.051, 644.054, 644.071, 644.145, 701.033, 701.058, and
 16 1 of this act.

[386.850. The Missouri energy task force created by
 2 executive order 05-46 shall reconvene at least one time per year for
 3 the purpose of reviewing progress made toward meeting the
 4 recommendations set forth in the task force's final report as issued
 5 under the executive order. The task force shall issue its findings
 6 in a status report to the governor and general assembly no later
 7 than December thirty-first of each year.]

[643.253. As used in sections 643.253 and 643.255, the
 2 following terms mean:

- 3 (1) "Asbestos", the asbestiform varieties of chrysotile,
 4 crocidolite, amosite, anthophyllite, tremolite and actinolite;
- 5 (2) "Asbestos abatement projects", an activity undertaken

6 to encapsulate, enclose or remove ten square feet or sixteen linear
7 feet or more of friable asbestos-containing materials from buildings
8 and other air contaminant sources, or to demolish buildings and
9 other air contaminant sources containing ten square feet or sixteen
10 linear feet or more;

11 (3) "Friable asbestos-containing material", any material
12 that contains more than one percent asbestos, by weight, which is
13 applied to ceilings, walls, structural members, piping, ductwork or
14 any other part of a building or other air contaminant sources and
15 which, when dry, may be crumbled, pulverized or reduced to
16 powder by hand pressure.]

[643.260. As used in sections 643.260 to 643.265, the
2 following terms mean:

3 (1) "Asbestos", the asbestiform varieties of chrysotile,
4 crocidolite, amosite, anthophyllite, tremolite and actinolite;

5 (2) "Asbestos-containing material", any material which
6 contains more than one percent of asbestos by weight;

7 (3) "Friable asbestos-containing material", any material
8 that contains more than one percent asbestos, by weight, which is
9 applied to ceilings, walls, structural members, piping, ductwork or
10 any other part of a building or other air contaminant sources and
11 which, when dry, may be crumbled, pulverized or reduced to
12 powder by hand pressure;

13 (4) "Person", any individual, partnership, copartnership,
14 firm, company, or public or private corporation, association, joint
15 stock company, trust, the state, political subdivision, or any agency,
16 board, department or bureau of the state or federal government, or
17 any other legal entity whatever which is recognized by law as the
18 subject of rights and duties;

19 (5) "School district", seven-director districts, urban school
20 districts and metropolitan school districts, as defined in section
21 160.011.]

[701.332. For purposes of sections 643.225 to 643.250, the
2 term "project" shall exclude any single-family owner-occupied
3 dwellings and vacant public or privately owned residential
4 structures of four dwelling units or less being demolished for the

5 sole purpose of public health, safety or welfare. All vacant
6 structures of four dwelling units or less located in any city not
7 within a county shall be exempt from all geographical and time
8 restrictions for the purpose of demolition pursuant to the National
9 Emissions Standards for Asbestos. Excluded structures that are
10 not located within a city not within a county shall be
11 geographically dispersed. All excluded structures shall be
12 demolished pursuant to a public safety determination by a local or
13 state governmental agency and pose a threat to public safety.]

Section B. Because immediate action is necessary to maintain regulatory
2 oversight by the state of Missouri, section A of this act is deemed necessary for
3 the immediate preservation of the public health, welfare, peace, and safety, and
4 is hereby declared to be an emergency act within the meaning of the constitution,
5 and section A of this act shall be in full force and effect upon its passage and
6 approval.

✓

Bill

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